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DEPARTMENT OF PERSONNEL

Mission

Administer comprehensive personnel services in an accessible, efficient manner to State agencies, employees and the public by delivering the highest level of service at all times; providing fair and equitable opportunities to all persons for employment and promotion; providing and promoting staff development; promoting an environment which values its employees, recognizes innovation and quality, and encourages the retention of a quality work force in the State's classified service.

Philosophy

The Department of Personnel will act in a manner that is ethical, accountable and responsive. We are committed to a spirit of cooperation and teamwork. We will strive for excellence in service and will approach our activities with a deep sense of purpose and responsibility. Our customers and co-workers can be assured that they will be treated fairly and with dignity and respect.

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I. INTRODUCTION

A. PURPOSE OF THIS HANDBOOK

This handbook was developed to make the "people management" part of your job as a manager in the State of Nevada easier by summarizing in one place key information on State and federal personnel administration laws, regulations, and procedures. Additionally, it attempts to provide guidance in several areas not controlled by laws or regulations. It does not provide exhaustive treatment of most topics, but refers you to source documents and other resources which are available for more detailed information. This handbook is not intended to supersede other State Personnel publications. Nor does it create any rights, benefits, or duties which are not set forth in the Nevada Revised Statutes, Nevada Administrative Code, or federal laws. Further, it does not constitute a contract with public employees.

The handbook is being issued in loose-leaf format so it can be readily updated. We welcome your comments on any aspect of it, and plan to make regular revisions. Please let us know if additional topics would be useful to you, or if there are areas needing clarification. We believe the handbook to be accurate at the time of publication; however, please be aware that changes can occur through revisions to NRS, NAC, federal law, and case law.

The handbook focuses primarily on the management of classified employees, although some sections also apply to unclassified employees. The following chart attempts to illustrate these applications in general. Even when a provision does not technically apply to unclassified employees, it may in some cases provide a useful model.

| APPLICATIONS OF THIS HANDBOOK TO CLASSIFIED AND UNCLASSIFIED EMPLOYEES | | |
|---|-----------------------------------|---|
| | Chapter | Applies to |
| I. | Introduction | Classified and unclassified managers |
| II. | Glossary | |
| III. | State Laws and Policies | Classified employees, with some applicability to unclassified employees |
| IV. | Federal Laws Affecting Employment | Classified and unclassified employees |
| V. | Workplace Safety and Health | Classified and unclassified employees |

**APPLICATIONS OF THIS HANDBOOK TO
CLASSIFIED AND UNCLASSIFIED EMPLOYEES**

| | Chapter | Applies to |
|-------|--|---|
| VI. | Classification and Compensation | Mostly classified employees, but sections A, C6 (if an unclassified employee is nonexempt), and C8 also apply to unclassified employees |
| VII. | Payroll and Recordkeeping Requirements | Classified and unclassified employees |
| VIII. | Filling Vacancies | Classified and unclassified managers |
| IX. | Probation Periods | Classified employees only |
| X. | Employee Development | Classified, with some applicability to unclassified managers and supervisors |
| XI. | Employee Benefits | Most apply to unclassified as well as classified |
| XII. | Employee Assistance Program | Classified and unclassified employees |
| XIII. | Separations from Service | Classified only |
| XIV. | Disciplinary Actions | Classified only |
| XV. | Grievance Procedure | Classified only |

B. ROLES OF MANAGERS, AGENCY PERSONNEL STAFF, AND DEPARTMENT OF PERSONNEL

Although a great many federal and State laws, regulations, and rules govern personnel administration, significant discretion remains available to managers in the way those are implemented. Additionally, managers have broad latitude in terms of the nature of communication with and involvement by employees in their organizations. The interaction of a number of externally-imposed elements and those over which managers have control produces a unique "climate" in each organization. More than anything else, this organizational climate appears to determine the morale and productivity of employees, and thus to a large extent the organization's effectiveness. The quality of leadership exercised by managers is therefore a critical determinant of the results produced by their organizations.

Managers' and supervisors' personnel administration responsibilities for the units reporting to them typically include:

- Hiring;
- Orientation;
- Training;
- Performance management; and
- Reward and discipline of employees.

Unless the following activities are performed at a higher level in the organization, managers are also responsible to:

- Design and organize the jobs and functions under their control;
- Develop internal work rules and personnel policies and procedures as needed, within the parameters of State and federal policy and law;
- Develop a philosophy and means of communicating with and involving employees in decisions and organizational developments affecting them; and
- Resolve employee complaints and grievances, and represent the agency in formal hearings as necessary, often with the assistance of an agency personnel officer and/or a Deputy Attorney General.

Your agency personnel office can assist you in many of these activities. The Department of Personnel provides training and/or consultation on most of these responsibilities as well. Be aware that your agency may have established personnel policies and procedures that go beyond the statewide requirements discussed in this handbook. Section C below elaborates on the topics of internal personnel policies and employee involvement.

In addition to personnel management responsibilities performed in the agencies, the Department of Personnel directly provides certain personnel services. Some of these functions require interdepartmental consistency due to the State's status as a single employer under the law. In other cases, such consistency is desirable if not legally required, or centralization is believed to provide a valuable service to agencies. Functions administered by the Department of Personnel include:

- Statewide personnel policy and regulation development; and interpretation and integration of state and federal personnel laws, regulations, and trends;

- Recruitment from employment announcements through certification of eligibility lists (delegation agreements exist with some agencies);
- Test development;
- Layoff and reemployment consultation;
- Classification (delegation agreements exist with some agencies) and Classification Plan maintenance;
- Compensation plan maintenance, and recommendations on changes to the salary structure;
- Payroll (Department of Personnel is one of five State payroll centers);
- Personnel records - official employee service records maintenance, processing of personnel actions and performance evaluations, and employment verification;
- Statistical reporting: turnover, sick leave usage, Equal Employment Opportunity (EEO) demographics, employee statistical abstract, etc.;
- Training in supervisory/management development, and job skills commonly needed across occupations (but not technical job skills training);
- Grievance and appeal resolution: consultation to either party as requested, and administrative support to Employee-Management Committee (but not representation of agencies or employees);
- EEO and Affirmative Action coordination;
- Employee evaluation and work performance standards system -- design and maintenance; and
- the Employee Assistance Program (EAP).

The majority of this Handbook focuses on the functions administered by the Department of Personnel.

C. AGENCY WORK RULES AND INTERNAL PERSONNEL POLICIES/EMPLOYEE INVOLVEMENT

As a means of improving management-employee relations and promoting harmonious working environments, agencies are encouraged to develop written policies and procedures

concerning personnel matters over which they exercise control. In the absence of agency-wide policies spelling out the factors considered, management decisions can appear arbitrary and unfair. (Internal rules that carry specific disciplinary consequences should be submitted to the Personnel Commission for approval as agency Prohibitions and Penalties.)

Management-employee relations are strengthened when employees are consulted in decisions affecting them. Many organizations find it useful to establish a structured forum to encourage open communication between managers and employees on issues of common concern. This may take the form of a labor-management committee, quality of worklife groups, facilitated team-building, and/or retreats or staff meetings set aside for this purpose.

Such employee-management forums should concentrate on analyzing and developing recommendations to resolve work-related problems and enhance organizational effectiveness. They should avoid personal attacks and discussions of individual personnel actions and formal grievances. Realizing that some employees may initially be reticent to participate in such open discussion with management, managers must patiently demonstrate by their actions **over the long term** that: 1) they value employee involvement in work-related issues; 2) there will be no negative repercussions (immediately or eventually) for introducing a concern or suggestion; and 3) their ideas will be seriously considered and used to improve the workplace where possible, rather than gathering dust on a shelf.

Areas of productive discussion can include:

- Workplace safety issues;
- How tasks are structured;
- How to improve the quality of services and work products;
- Process redundancy;
- Methods used to determine assignments, performance appraisals, work performance standards, shift and overtime assignments, priority of leave requests, promotions, and other personnel management practices;
- Training needs;
- Morale problems; and
- Equipment and other resource needs.

As a specific example, agencies that require shift work have benefitted from soliciting input from affected employees regarding criteria for making shift assignments, and then documenting the policy in writing. The Department of Personnel encourages all agencies that need to assign shifts, days off, or overtime to consult with employees in developing or updating written policies regarding how these decisions are made. It is strongly suggested that seniority be considered, along with factors specific to the agency's operational needs. Additionally, managers are urged to accommodate employees' child care needs through the use of flexible schedules when possible.

A 1991 Assembly Concurrent Resolution indicates that employers' use of available strategies to assist their employees with child care could reduce absenteeism and tardiness, enable employers to recruit and retain valuable employees, and enhance employees' morale. Among those strategies available at the agency level, it suggests providing employees with:

- Information and assistance in locating and choosing child care;
- Flexible policies for time away from work to attend to children's needs; and
- Other flexible or innovative practices, such as increased use of part-time employees and job-sharing.

D. LEGAL LIABILITIES OF SUPERVISORS AND MANAGERS

The area of employment law is a dynamic one, not only because of the proliferation of laws and regulations affecting personnel management, but also due to the continual evolution of existing laws through case law and practice. Regulations and court decisions allow for the possibility of individual supervisors and managers to be held personally liable for violations in some cases, including discrimination, sexual harassment, Fair Labor Standards Act, and Family and Medical Leave Act suits. This possibility underscores the need for managers to: 1) be informed of their own legal obligations and their employees' legal rights, 2) act accordingly, and 3) maintain appropriate documentation of their own and their employees' actions. Chapters III and IV of this Handbook will serve to acquaint you with State and federal laws regarding personnel management.

II. GLOSSARY OF TERMS

Unless the context requires otherwise, terms used in this handbook have the following meanings:

1. **Appointment** means the acceptance by an applicant of an offer of employment by an appointing authority and their mutual agreement as to the date of hire.
2. **Appointing Authority** is an official, board or commission having the legal authority to make appointments to positions in the State service, or a person to whom the authority has been delegated by the official, board or commission.
3. **Automatic Advancement** means the progression of an employee through a class series to the authorized grade of the position but not exceeding the journey level.
4. **Break in service** means any separation from State service except for those separations listed in NAC 284.598.
5. **Class** is a group of positions sufficiently similar with respect to their duties and responsibilities that the same title may be reasonably and fairly used to designate each position allocated to the class, substantially the same tests of fitness may be used, the same minimum qualifications may be required and the same schedule of compensation may be applied with equity.
6. **Class series** means the normal line of progression from training, entry or preparatory levels to supervisory or administrative levels within a job specialty so that the minimum qualifications, tests of fitness and the duties and responsibilities of each class are similar but different in level.
7. **Class specification** means a written description of a class, consisting of a title, a definition, examples of duties and the minimum qualifications which are required.
8. **Classification** means the systematic process of analytically grouping and allocating positions to classes based on the similarity of actual duties and responsibilities.
9. **Classification plan** means a listing of all the classes which have been established, the class specifications and the grade to which each is assigned.
10. **Classified service** is comprised of employees, other than nonclassified, unclassified or elected officers, who are selected and governed by the State's merit system as found in the Nevada Administrative Codes (NAC) and Nevada Revised Statutes (NRS).

11. **Pay progression date** is one year of employment equivalent to full-time service from the date of an employee's appointment to their current grade, except as otherwise provided in NAC 284.182.
12. **Demotion** is any movement of an employee to a class having a lower grade than the class previously held.
13. **Department of Personnel** refers to the staff of the Department of Personnel.
14. **Eligible person** means any person who applies, is eligible, competes and successfully passes all phases of an examination and is placed on an appropriate eligible list.
15. **Employee** is a person legally holding a position in the public service as defined in NRS 284.015.
16. **Essential functions of a position** means the functions that a person who holds the position must be able to perform unaided or with the assistance of reasonable accommodation.
17. **Excluded employee** means an employee in the classified service who is an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act and is the head of a department, division or bureau, or a doctoral level professional.
18. **Grade** is a term used to designate a salary range for a class.
19. **Merit salary increase** is an increase in salary granted on the employee's pay progression date when a performance rating has been granted which is standard or better and the employee has not attained the top of grade.
20. **Nonclassified** means an employee in the office of the governor or the judicial or legislative branch of State government.
21. **Nonexempt** means, for the purposes of overtime and holiday pay, an employee eligible for time and one-half compensation.
22. **Permanent employee** is a classified employee who has successfully completed the probationary period for any class held during continuous classified service. The term does not include a person serving a new probationary period as required by subsection 6 of NAC 284.630.
23. **Permanent status** means the standing an employee achieves in a class when:
 - A. The employee has successfully completed the probationary period for the class; or

- B. The appointment does not require a new probationary period and the employee does not hold another type of status of appointment for the class.
24. **Position** is a group of duties and responsibilities that have been assigned to a single job.
25. **Promotion** means an advancement to a position in a class which has a higher grade than the class previously held, except as otherwise provided in NAC 284.462.
26. A **promotional appointee** means any employee who has remained permanently employed in the State service but has not yet completed the probationary period which is designated for the class to which the employee has been promoted.
27. **Reasonable accommodation** means the modification or adjustment of the process of applying for a position, the functions of a position or the environment at work so a qualified person with a disability has an opportunity to attain the same level of performance or to enjoy the benefits and privileges of employment that are available to a similarly situated person without a disability, without creating an undue hardship on the employer.
28. **Reappointment** means a noncompetitive appointment of an employee to a class formerly held or to a comparable class.
29. **Reclassification** means a reassignment or change in allocation of a position by:
- A. Raising it to a class with a higher grade;
 - B. Reducing it to a class with a lower grade; or
 - C. Moving it to another class at the same grade
- on the basis of significant changes in kind, difficulty or responsibility of the work performed.
30. **Reemployment** means a noncompetitive appointment of a current or former employee to a class for which reemployment rights have been granted, as provided in NAC 284.385, because of military service, layoff, seasonal separation, reallocation, reclassification of the employee's position to a lower grade, or because the employee sustained a permanent disability arising from a work related injury.
31. **Reinstatement** means a noncompetitive appointment of a former permanent employee to a class formerly held or to a comparable class.
32. **Step** is a specific rate of pay within a grade. Each grade has 15 half steps, two of which equal 1 step.

33. **Transfer** means:
- A. A noncompetitive appointment in which an employee moves from one position to another position in the same class or related class with the same grade; or
 - B. A competitive appointment in which an employee moves from one position to a position in a different class with the same grade.
34. **Unclassified service** means officials, officers, or employees whose positions are identified in Nevada's Revised Statutes as unclassified. These positions are filled by the responsible appointing authority without regard to the State's merit system.
35. **Underfill** means the filling of a position with an employee holding a position in a lower classification, except for those situations where employees are in classifications which are training or intermediate levels preparatory to promotion to the journey level class.

III. STATE LAWS AND POLICIES

This chapter reviews major State of Nevada laws and policies relating to personnel management. Be aware that any given situation may require application of several different laws and policies, both State and federal (see also Chapter IV).

In addition to the specific laws and policies addressed in this chapter, and the federal laws addressed in the next chapter, most of the remaining chapters in this handbook focus on State personnel administration regulations as found in NAC 284. These chapters are arranged by major functional areas.

When a provision is found in NRS 284 or NAC 284, it applies specifically to classified employees, and to unclassified employees only if so indicated. Personnel policies found outside of NRS 284 or NAC 284, or in statements issued by the Governor or Attorney General, may also apply to unclassified employees.

A. AIDS POLICY

It is the policy of the State that applicants for employment who are infected or believed to be infected with the Human Immunodeficiency Virus (HIV) which causes AIDS shall be given equal consideration for employment with the State. Confidentiality of applicant and employee medical information is to be protected in accordance with all applicable policies and laws (see section on the Americans with Disabilities Act in Chapter IV).

An employee who is infected with HIV is entitled to continue working as long as capable of satisfactorily performing the essential functions of the job. The State will make reasonable accommodation in job assignments and work environment to this end. Each request by an applicant or employee for accommodation should be reviewed on an individual basis while maintaining appropriate levels of confidentiality.

The United States Center for Disease Control (CDC) has determined that there is an insignificant risk of persons becoming HIV-infected in the normal workplace setting. Employees are therefore expected to perform their normal work duties with infected coworkers when personal and intimate contact is not involved. Agencies in which employees have direct or continuing close contact with HIV-infected blood or bodily secretions are required to establish protocols following CDC recommended precautions, and to provide education for agency personnel.

Questions concerning the State's policy should be directed to the Health Division HIV Program Coordinator, the Department of Personnel, or the agency HIV coordinator.

[State Policy on Aids from Department of Personnel (PERD #2/92, 1-27-92)]

B. ALCOHOL AND DRUG FREE WORKPLACE POLICY; TESTING OF EMPLOYEES FOR ALCOHOL AND DRUGS

It is the policy of the State to ensure that employees do not report for work in an impaired condition resulting from the use of alcohol or drugs; or consume alcohol while on duty or unlawfully possess or consume drugs while on duty, at a work site, or on State property. This policy, including penalties for certain violations, is found in NRS 284.406 - 407, adopted by the Legislature in 1991. Also included are provisions for drug testing of applicants for positions affecting public safety, and the testing of employees when there is objective evidence that they may be under the influence of alcohol or drugs. Be aware that the State's allowable concentrations of alcohol for employees on duty are more stringent than those used by law enforcement for the general population.

The Department of Personnel's Alcohol and Drug Testing Program outlines procedures for drug testing of applicants and employees. A copy of the program may be obtained by calling the Department of Personnel at (775) 684-0119. The Alcohol and Drug Testing Program emphasizes rehabilitation. Employees who test positive for the first time in a screening test and have committed no other acts during the course of conduct giving rise to the screening test **must** be referred to the Employee Assistance Program. (If the employee has been **convicted** of driving under the influence while on State business, this requirement is somewhat modified. See NAC 284.653, sections 1 and 2).

The Department of Personnel is charged with providing training for supervisors in the provisions of this policy. For information on scheduled training classes, call the Personnel Training Office at (775) 687-4120.

Additionally, the Governor has issued an Alcohol and Drug-Free Workplace Policy, which must be covered with new employees at the time of their employment. An acknowledgment form (TS-58) is to be signed by the employee and submitted to the Records Section for inclusion in the employee's service jacket.

[Alcohol and Drug Testing Program from the Department of Personnel;
NRS 284.406 through 284.407; NAC 284.880 through 284.894]

C. DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION (WHISTLEBLOWER LAW")

It is the policy of the State that a State officer or employee is encouraged to disclose, to the extent not expressly prohibited by law, improper governmental action; and it is the intent of the legislature to protect the rights of a State officer or employee who makes such a disclosure. "Improper governmental action" means any action taken by a State officer or employee in the performance of his official duties, whether or not the action is within the scope of his employment, which is:

- In violation of any State law or regulation;
- An abuse of authority;

- Of substantial or specific danger to the public health or safety; or
- A gross waste of public money.

State officers or employees who believe they are victims of reprisal or retaliatory action for disclosure of improper governmental action may file a written appeal with the hearing officer of the Department of Personnel, when the reprisal or retaliatory action occurs within 2 years after the information is disclosed. The claim of reprisal or retaliatory action **must be submitted on the NPD-53 Request for Hearing Under the Provisions of NRS 281.641 (Whistle Blower Law) within the 10 working day filing period pursuant to NAC 291.305.** This form can be obtained from the Department of Personnel or an agency's personnel representative.

The hearing officer may not rule against the employee based on the person(s) to whom disclosure was made. If the hearing officer finds that reprisal or retaliation occurred, an order may be issued directing the responsible person to desist and refrain from such action. The hearing officer shall file a copy of the decision with the Governor or any other elected State officer responsible for the action of that person.

[NRS 281.611 through 281.671]

D. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY

It is the policy of the State to provide equal opportunity in hiring, training, recruitment, promotion, salaries, benefits and other terms and conditions of employment for all persons without regard to race, color, religion, national origin, sex, age, sexual orientation, or disability. Equal employment opportunity is a proactive condition whereby employment procedures and practices provide for equitable treatment of qualified individuals without regard to nonmerit factors. Affirmative action is a results-oriented process by which equal employment opportunity is achieved.

Agencies in the Executive Branch of State government operate under a general affirmative action plan coordinated by the Department of Personnel's Office of Equal Employment Opportunity. This umbrella plan places primary emphasis on eliminating barriers to equal opportunity, expanding applicant pools and recruitment methods, and training employees and supervisors. Quotas are not used or permitted. Agencies are encouraged to develop and implement their own plans to address agency-specific needs and concerns while furthering the goals of the State plan.

Agency administrators are encouraged to actively pursue affirmative action programs within their agencies and to designate one or more agency EEO Officer(s) to coordinate and disseminate information on affirmative action policy. Work force composition reports are provided quarterly by the Department of Personnel's EEO Office to enable agencies to monitor and evaluate their own affirmative action progress. The Department of Personnel's EEO Office is also available to provide information, suggestions and assistance upon request.

[State Affirmative Action Plan; NAC 284.114 & 284.696]

E. SEXUAL HARASSMENT POLICY

Sexual harassment is a form of discrimination which is unlawful under State and federal statutes. The State of Nevada regards it as a very serious offense which, under certain conditions, can lead to termination even on the first occurrence. "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:

- Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person's employment;
- Submission to or rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or
- Such speech or conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

Managers are responsible for ensuring that sexual harassment is not tolerated or condoned, and that instances of it are met with appropriate disciplinary action. Sexual harassment exposes the State to a very serious financial risk. Appointing authorities are responsible for promptly notifying the Attorney General's Office upon becoming aware of allegations of sexual harassment in their agencies (NAC 284.696, section 2). Time is of the essence, because immediate intervention can often resolve the problem and prevent further escalation. All complaints should be investigated, even if they seem frivolous on the surface. Be advised that courts hold employers responsible not only for instances of sexual harassment of which they were aware, but for those of which they **should have been aware**.

In 1995, the Attorney General and the Governor instituted the *Zero Tolerance* program to eliminate sexual harassment from State of Nevada workplaces. The program includes the following core elements:

- An aggressive, ongoing education and training program;
- Strengthening the existing regulation (NAC 284.771) to emphasize that sexual harassment is considered a very serious offense with potentially serious disciplinary consequences; and
- Automatic notification and/or involvement of the Attorney General's Office in the investigation and resolution of all charges of sexual harassment in State agencies.

Employees who believe they have been subjected to sexual harassment or any other form of unlawful discrimination under state or federal laws are entitled to:

- Report the alleged discrimination to the Attorney General, his/her appointing authority, equal employment opportunity officer, and/or personnel representative for corrective action;
- Use the procedure for adjustment of grievances found in NAC 284.658 to 284.6957; or
- File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.

[Attorney General's sample policy on sexual harassment (12/97);
NRS 281.370 and 613.330; NAC 284.696 and 284.771]

F. HONORARIUMS

No public officer or employee shall accept or receive an honorarium. "Honorarium" is defined as the payment of money or anything of value for an appearance or speech by the individual in his capacity as a public officer or public employee. (See statute for exclusions: NRS 281.553)

G. EMPLOYEE POLITICAL ACTIVITY

NAC 284.770 provides that State employees are entitled to vote and express their political opinions as they choose, except that they may not:

- During the hours of their State employment, engage in political activity on behalf of a political party or person seeking office;
- At any time, engage in political activity to secure a preference for a promotion, transfer, or salary increase; or
- Directly or indirectly solicit or receive any contribution for a political purpose from a subordinate in the same department.

Periodically an employee of an Executive branch agency is elected to office in either the Legislative or Judicial branches of State government. Opinions of the Attorney General have consistently held that such employees must resign their Executive branch position in order to take up duties in the Legislative or Judicial branches. Attorney General opinions have further stated that any arrangement for reinstatement to the Executive branch position following elected service in another branch is also an impermissible evasion of the State Constitution's provision for separation of powers. (Section 1, Article III of the Constitution of Nevada)

(Note: Political activities of State employees who work in connection with programs financed in whole or in part by federal funds are also limited by the federal Hatch Act, described in Chapter IV, Section C).

H. POLICY ON EMPLOYMENT INQUIRIES

Employers and/or individual supervisors have at times been sued for making negative remarks about a former employee's performance when responding to an employment inquiry. You are therefore advised to use caution when responding to reference checks. Additionally, be aware that NRS 613.200 prohibits employers in the State or their agents from any willful action intended to prevent a former employee from obtaining employment elsewhere in the State, regardless of the reason for the employee's separation.

State policy prevents the release of information maintained by the Department of Personnel or the personnel office of an agency relevant to an employee's performance or conduct, including disciplinary actions taken against the employee. NAC 284.726, Access to Confidential Records, provides an exception for sharing this information with the appointing authority (or designated representative) of the employing agency, or an appointing authority of another State agency where the employee is being considered for employment.

In its employment verification function, the Department of Personnel's Records Section releases only the job title, most recent salary, and dates of employment of a former employee. If the former employee has signed a release of liability, the Records Section will indicate the reason for termination as stated on the termination document.

Generally speaking, it would be safe for supervisors to share favorable comments regarding a current or former employee with prospective new employers within or outside of State service.

[NRS 613.200; NAC 284.718 and 284.726]

I. PENALTIES FOR THREATENING PUBLIC OFFICERS AND EMPLOYEES

NRS 199.300 establishes penalties for persons who threaten or intimidate public officers or employees (also jurors, arbitrators, etc.) with the intent of influencing their official actions or decisions. Charges range from gross misdemeanor if no physical force or immediate threat of such force is used, to no less than one year in prison if such force or threat thereof is present.

IV. FEDERAL LAWS AFFECTING EMPLOYMENT

This chapter reviews major federal laws and regulations affecting your job as a manager. They relate to all phases of the employment relationship, from recruitment and selection to terms and conditions of employment. They typically cover both classified and unclassified employees.

A. FAIR LABOR STANDARDS ACT OF 1938 - OVERTIME PROVISIONS

In 1985, the State of Nevada along with other state and local governments became subject to the overtime provisions of the Fair Labor Standards Act (FLSA) as a result of the landmark U.S. Supreme Court decision in *Garcia v. San Antonio Mass Transit Authority*. The FLSA requires that employees not specifically exempted from the FLSA be paid a minimum wage and, in most cases, premium overtime for hours worked in excess of eight hours in a day or 40 in a week.

In July 1992 the District Court of Nevada rendered a decision in *Benzler v. State of Nevada* finding that employees previously considered exempt were not paid on a salary basis within the meaning of the FLSA. This was because their pay was subject to reduction for partial days' absence, they were paid at straight time or permitted to accrue compensatory time when they worked overtime, and they were subject to unpaid disciplinary suspensions in less than one-week increments.

As a result of the Benzler decision, the Legislature enacted a law substantially restricting the number of employees in State service who are exempted from the overtime requirements of the FLSA. The only State of Nevada employees **ineligible** for overtime compensation are those who meet one of the following descriptions:

- An unclassified employee who is an elected official; on the personal staff of an elected official; an appointed head of a department or division serving at the discretion of an elected official; or an executive, administrative, or professional employee as defined by FLSA.
- A classified employee who is an executive, administrative, or professional employee as defined by the FLSA and who is either a head of a department, division, or bureau, or a doctoral level professional as determined by the Department of Personnel.

See also Chapter IX, Section C.6 (Overtime Pay/Compensatory Time) and Chapter XI, Section B.3 (Compensatory Time Off) in this Handbook for more information on the State's rules on these topics.

[U.S. 29 CFR Part 541 of the FLSA; NRS 284.148; S.B. 362 - Memo Perd #20/93, 23/93 and 40/93 from the Department of Personnel;
Packet on FLSA Exemptions from the Department of Personnel]

B. FAIR LABOR STANDARDS ACT - CHILD LABOR

The FLSA also regulates the minimum age and maximum hours of employment for minors. Minors 14 to 18 years of age may only work in certain non-agricultural occupations permitted by the Secretary of Labor, and then only if the employment does not interfere with their health or well-being. Minors 14 to 16 years of age are restricted to certain hours of employment during non-school periods or to hours specifically authorized during school hours pursuant to a work training program agreement.

Outside of school hours, employment of minors 14 to 16 years of age is restricted to:

- Not more than 40 hours in any one week when school is not in session;
- Not more than 18 hours in any one week when school is in session;
- Not more than 8 hours in any one day when school is not in session;
- Not more than 3 hours in any one day when school is in session; and
- Between 7 a.m. and 7 p.m. in any one day, except during summer (June 1 through Labor Day), when the evening hour is 9 p.m.

The FLSA requires employers to obtain proof of age for employees under the age of 19 and maintain this proof on file where the minor is employed. The following documents are considered acceptable proof of age: a birth certificate, an attested transcript of birth, a signed statement issued by the state registrar of vital statistics, a baptism record, a family bible record, a passport, a certificate of arrival in the United States, and certain school records accompanied by a physician's certificate.

[U.S. 29 CFR Part 570]

C. HATCH ACT OF 1939

The Hatch Act as amended in 1940 restricts the political activity of persons whose principal employment is in executive branch agencies of state or local government and whose work is related to programs financed wholly or in part by federal grants or loans. Persons employed by educational or research institutions which receive funding from the state or its political subdivisions, or from certain types of philanthropic organizations, are not covered by the provisions of the Act.

Employees covered by the Hatch Act are prohibited from:

- Running for public office in a partisan election;

- Using official authority or influence to affect the results of an election or nomination for office; and
- Directly or indirectly advising or coercing other covered state or local employees to contribute or loan anything of value to a political party or candidate.

The Act does not prohibit covered state employees from participating in political campaigns, political parties or organizations. It also does not prevent appointment of a person **currently** holding partisan elective office to a position covered by this Act, although it would prohibit any future candidacy for partisan office while the person remains employed in a covered position.

The Hatch Act is enforced by the Merit Systems Protection Board (MSPB) in the U.S. Office of the Special Counsel. If the MSPB makes a formal determination that a violation of the Act has occurred which warrants the employee's discharge, the employee must be removed from their position within 30 days, and is prohibited from employment in any state agency or any local political entity in the same state for a period of 18 months from the date of the removal. If either of these conditions are not met, the agency forfeits the equivalent of two years of the employee's pay from its federal loans or grants.

(Please note that the State's rule on Employee Political Activity applies to **all** classified employees and restricts other types of political activities - see Chapter III, section G.)

[Title 5, U.S.C. 1501 - 1508; 5 CFR 151]

D. EQUAL PAY ACT OF 1963

The Equal Pay Act of 1963 is also part of the Fair Labor Standards Act. The Act requires equal pay for equal work by employees of either sex who work in the same establishment. It prohibits sex-based discrimination in wages for equal work on jobs requiring equal skill, effort and responsibility, and which are performed under similar working conditions. The Act permits unequal pay when the disparity is based on a factor other than sex, such as seniority.

[U.S. 29 CFR Part 1620 of the FLSA]

E. TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Title VII of the Civil Rights Act of 1964, as amended, prohibits employers from discriminating against individuals on the basis of race, color, sex, national origin or religion with respect to hiring, discharge, compensation, promotion, classification, training, or other terms, conditions, and privileges of employment. Sexual harassment is considered a form of discrimination based on sex, and is therefore covered under Title VII as well as by State policy (see section on Sexual Harassment in Chapter III).

Appointing authorities are responsible for promptly notifying their Deputy Attorney General of any allegation by an employee in their agency of unlawful discrimination under State or federal laws, including Title VII, and of the actions being taken to address the allegation.

Employees who believe they have been subjected to unlawful discrimination under State or federal laws are entitled to the same avenues of recourse listed at the end of the Sexual Harassment section in Chapter III.

The Equal Employment Opportunity Commission (EEOC) is the federal enforcing agency for Title VII. The Nevada Equal Rights Commission (NERC, a division of the Department of Employment, Training, and Rehabilitation) is authorized by the EEOC to accept and investigate any discrimination case over which the EEOC has jurisdiction. Cases filed with NERC are considered dual-filed with the EEOC. See section on the Civil Rights Act of 1991, this chapter, for a description of remedies available to plaintiffs.

F. **AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967**

The Age Discrimination in Employment Act (ADEA) prohibits discrimination against persons aged 40 and over on the basis of age with regard to hiring, discharge, compensation or other terms of employment. The ADEA is enforced by the EEOC.

G. **UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)**

The Uniform Guidelines on Employee Selection Procedures are regulations originally developed by the federal government for use in the enforcement of civil rights legislation. Over several decades of litigation at the Supreme Court level, the Uniform Guidelines have been given such deference by courts that they hold nearly the force of law. When courts are dealing with the appropriateness of an employer's decisions on employee selection, promotion, evaluation, retention or tenure, they would therefore be expected to enforce the relevant provisions of the Guidelines.

The Uniform Guidelines require that employers be able to demonstrate the validity of any procedure, process, or examination that tests, screens, or otherwise impacts an individual's ability to obtain or retain employment or to advance in that organization. The use of any selection procedure that has an **adverse impact** on the hiring, promotion, or other employment opportunities of persons in under represented classes is considered discriminatory unless the procedure has been **validated** in accordance with these Guidelines.

When the selection rate for any underutilized group is less than 4/5ths (80%) of the rate of the group that has the highest selection rate, the selection procedure is considered to have adverse impact on that group, and a *prima facie* case of discrimination will have been established. For example:

If the selection rate for white applicants in an employment examination is 100 out of 500 (20%), a selection rate less than 16% (80% of 20%) of applicants from any under represented group would constitute adverse impact.

If adverse impact is found, the employer must prove the validity of its procedures using professional standards from the field of testing and measurement as outlined in the Uniform Guidelines.

The importance of appropriate, job-related recruitment, selection, promotion, placement, training and retention decision-making procedures cannot be overstated. This requires careful scrutiny of the decision-making process used in **all** personnel actions. Staffing patterns should be monitored to identify under represented groups at all levels in an agency's work force, including those jobs for which the State uses the "application to agency" process. When disparities exist, special strategies may then be initiated to identify and recruit individuals from under represented groups.

The Department of Personnel is available for consultation with agencies regarding any aspect of personnel assessment.

[Uniform Guidelines On Employee Selection Procedures
43 FR 38290 et. seq. (1978)]

H. IMMIGRATION REFORM AND CONTROL ACT OF 1986

The Immigration Reform and Control Act (IRCA) of 1986 prohibits employers from discriminating in hiring and firing on the basis of national origin or citizenship status. Covered employees include U.S. citizens, permanent resident aliens, refugees, and newly legalized aliens who have filed a notice of intent to become U.S. citizens. An employer may select a U.S. citizen over a foreign-born worker if both individuals are equally qualified for the position.

The IRCA requires that employers verify the employment eligibility of all new hires, including American citizens. New employees must complete and sign the employee information and verification section of INS Form I-9, Employment Eligibility Verification, at the time of employment. Within three business days following employment, employers must require new employees to provide acceptable proof, as identified on the I-9, of his or her identity and employment eligibility; physically examine the documents; complete the employer review and verification section of the form; and sign the form attesting that the documents have been examined.

[Employment Eligibility Verification (Form I-9) Records, available from
the Department of Personnel, Records Section]

I. AMERICANS WITH DISABILITIES ACT OF 1990

The Americans with Disabilities Act (ADA) of 1990 is a civil rights act prohibiting discrimination against individuals with disabilities in employment, public services and transportation, public accommodations, and telecommunications.

Under the ADA, a "disability" is defined as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. To be covered by the ADA, persons with disabilities must be otherwise qualified for the job, program, or activity to which they seek access.

Under the employment provisions of the Act (Title I), it is discriminatory not to make reasonable accommodation to the known physical or mental disabilities of applicants or employees with disabilities. Employers are not required to make accommodations that would impose an undue hardship on the operation of their business. Undue hardship is defined as an action that is excessively costly, extensive, or disruptive, or which would fundamentally alter the nature or operation of the business. However, before denying a requested accommodation for cost reasons, agencies must consult with the State Budget Division, and also consider other options listed in Chapter VI, F.3a. (Reasonable Accommodation for Disabilities) of this manual.

The ADA requires that employment decisions involving persons with disabilities be made on the basis of whether they can perform the job's essential functions, with or without accommodation. Therefore, in cases where considering a marginal function would adversely impact a person with a known disability, the employer must make hiring decisions on the basis of essential functions only. Marginal functions are those that are not critical to the purpose of the job and/or which could be reassigned.

The law seeks to delay consideration of medical or disability-related information until a conditional job offer has been made to the best qualified applicant. For this reason, it strictly prohibits medical or disability-related questions on applications, job interviews, and background or reference checks. **After** a conditional offer of employment has been made, employers may require medical examinations or inquire regarding the existence, nature, or severity of a disability **if**:

- All persons who have been given conditional job offers in the same job category are subjected to the examination/inquiry, regardless of disability; and
- The information obtained is kept confidential.

The ADA requires that any medical or disability-related information obtained by an employer on applicants or employees be kept in separate locked medical files, not in personnel files. It also prohibits employers from disclosing confidential medical information to anyone, including co-workers, except as provided in the law.

Each State agency is responsible to designate an ADA Coordinator who can be contacted for information on the Act and questions or complaints about its application in that agency (including employment and program accessibility). The Department of Personnel's ADA Coordinator is also available as a resource regarding the employment provisions of the law.

Title I of the ADA is enforced by the federal EEOC. Under a work-sharing agreement with the EEOC, the Nevada Equal Rights Commission also accepts and investigates ADA complaints for the EEOC.

[Americans with Disabilities Act of 1990; ADA Title I - Employment Guideline for Managers and Supervisor, Department of Personnel, 2/94]

J. CIVIL RIGHTS ACT OF 1991

This Act adds compensatory and punitive damages, up to a total of \$300,000, to the available remedies when employers are found to have engaged in **intentional** unlawful discrimination as prohibited by the Civil Rights Act of 1964, the Americans with Disabilities Act, or the Vocational Rehabilitation Act of 1973. Prior to this Act, available remedies were limited to court orders to cease the unlawful practice(s), and to institute affirmative action as appropriate, which could include back pay, reinstatement or hiring.

The Civil Rights Act of 1991 also prohibits employers from adjusting the scores of employment-related tests, or using different cut-off scores, or otherwise altering test results, on the basis of race, color, religion, sex, or national origin.

K. FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act (FMLA) of 1993 entitles eligible employees to take up to 12 work weeks of job-protected leave in a calendar year for specified family and medical leave reasons. FMLA leave may be unpaid or, under certain circumstances, paid. For example, an employee may request, or an agency may require that an employee use accrued annual or sick leave (if sick leave is regularly authorized for the reason for which the leave is requested). Catastrophic leave, if granted by the employer, may also be used. When medically necessary, employees must be allowed to take leave intermittently or by reducing their regular work schedule.

To be eligible for FMLA leave an employee must:

- Have worked for the State of Nevada for 12 months or more (need not be continuous);
- Have worked at least 1,250 hours (including paid leave) over the previous 12 months; and
- Work at a location where at least 50 persons are employed by the State of Nevada within 75 miles.

FMLA leave must be granted to an eligible employee for any one or more of the following reasons:

- The birth of an employee's child, or to care for the child after birth;
- The placement of a child with an employee for adoption or foster care, or to care for the child after placement;
- To care for an employee's spouse, child or parent who has a serious health condition; or
- A serious health condition that makes the employee unable to perform one or more of the essential functions of the job.

"Serious health condition" is defined broadly and encompasses a variety of conditions resulting in the person's inability to work, attend school, or perform other regular daily activities, and for which the person is under the supervision of or receiving continuing treatment by a health care provider. The term encompasses the following conditions:

- Inpatient care in a hospital, hospice or residential medical facility (including related treatment/recovery/incapacity);
- Periods of incapacity lasting more than 3 consecutive calendar days and which involve continuing treatment (including related treatment/recovery/incapacity);
- Periods of incapacity due to pregnancy, or for prenatal care (a visit to a health care provider is not required for each absence);
- Periods of incapacity or treatment due to a chronic serious health condition (e.g. asthma or diabetes) which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (a visit to a health care provider is not required for each absence);
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, severe stroke, or terminal stages of a disease. Only supervision by a health care provider rather than active treatment is required in such cases); or
- A period of absence for multiple treatments and recovery, either for restorative surgery after an injury, or for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention (e.g. chemotherapy treatments for cancer or physical therapy for severe arthritis).

Ordinarily, unless complications arise, conditions such as the common cold, flu, ear aches, minor ulcers, headaches other than migraines, and routine dental problems would **not** meet the definition of a serious health condition.

Many work-related injuries or illnesses covered by worker's compensation are considered serious health conditions under the FMLA.

An employer may require medical certification to support a request for leave due to a serious health condition of an employee or an employee's family member. The employer may not require information beyond what is addressed on the medical certification form NPD-61). A second and, if necessary, a third opinion may be requested at the employer's expense. Periodic recertification may also be required.

An employee must provide at least 30 days' advance notice when the need for leave is foreseeable. If 30 days' notice is not possible, as in a medical emergency, notice must be given as soon as practicable. When annual or sick leave are used instead of unpaid leave, any less stringent State notice requirements apply.

Employees must give at least verbal notice sufficient to make the employer aware of the need for FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee does not have to expressly assert rights under FMLA or even mention the FMLA to be subject to the protection of the law. The employee does, however, need to state a qualifying reason for the leave. For example, an employee could simply state that leave is needed for an expected birth of a child. Employers should inquire further if it is necessary to determine whether the requested leave qualifies under the FMLA. The employer's decision to designate leave as FMLA leave must be based on information received from the employee or employee's spokesperson.

An employer may ask that an employee comply with customary procedural requirements for requesting leave (e.g. completion of leave request form); however, the employer may not disallow or delay FMLA leave for an employee's failure to follow internal procedures if timely verbal or other notice was given.

Upon receiving notice or becoming aware that an employee needs leave for an FMLA-qualifying reason, the employer must provide notice that the employee is eligible for FMLA leave. Failure to notify an employee who is not eligible for FMLA leave prior to the date leave is to commence (or within 2 working days when the employee provides less than 3 days' notice) will result in the employee being deemed eligible for FMLA leave. The employer must also promptly (usually within 2 working days) notify the employee when leave will count toward FMLA entitlement, and inform the employee of their rights and obligations under FMLA. Distribution of the form entitled Employer Response to Employee Request for Family and Medical Leave (NPD-62) and a notation on the employee's time sheet satisfies this requirement.

An employer with sufficient knowledge to determine that leave is for an FMLA reason, and fails to notify the employee of its designation as FMLA leave may not make the designation retroactively. The leave may only be designated prospectively, as of the date of notice to the employee. The employee in these circumstances is fully protected by the law, but the portion of the absence preceding the designation notice may not be counted toward the 12-week entitlement.

Leave may not be designated as FMLA after an employee returns to work unless:

- The employer did not learn the reason for the leave until the employee returned to work. In this situation, the employer may designate it as FMLA leave within two working days after the date the employee returned to work. An employee who does not notify the employer within two working days after returning to work that leave was taken for an FMLA-qualifying reason may not subsequently assert FMLA protection for the absence.
- A provisional designation of FMLA leave has been made and the employer is awaiting documentation to confirm that the leave qualifies for this status.

Employers must maintain group health insurance coverage for an employee on FMLA leave on the same basis as if the employee was continuously working during the leave period. The employee must be advised of arrangements to pay the employee's share of any premiums (e.g. dependent coverage) during the leave. In some instances, an employer may recover premiums it paid toward the employee's health coverage if the employee fails to return to work.

Upon return from FMLA leave, an employee must be returned to his/her original job, or to an equivalent job with equivalent pay, benefits and other terms and conditions of employment. This includes restoration to a position with the same or equivalent pay premiums, such as shift differential. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously working during the leave. For example, if an employee would have been laid off anyway, that employee can be laid off during an FMLA leave.

The FMLA prohibits interference with an employee's rights under the law, such as by refusing to authorize or discouraging an employee from using FMLA leave. Employers are also prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, use of FMLA leave must not be used against an employee in employment decisions such as hiring, promotions or disciplinary actions, nor counted under "no fault" attendance policies.

The FMLA is enforced by the Wage and Hour Division of the U.S. Department of Labor.

[Summary of Family and Medical Leave Act prepared by the Department of Personnel,
December 1995; NAC 284.5231 - 284.5239; 29 CFR, Part 825,
issued by Department of Labor, Wage and Hour Division]

V. WORKPLACE SAFETY AND HEALTH

A. SAFETY AND HEALTH PROGRAM

1. **General Information.** Each State agency is required to establish a written safety and health program. This program must contain provisions for workplace safety training and the establishment of a safety committee. Safety committees must include employee representatives as members.

[NRS 618.195; NRS 618.383; Governor's Executive Order -
Workplace Health & Safety 12/17/93]

A safety and health program should demonstrate an agency's commitment to providing the safest possible working environment for employees. Effective safety and health programs can markedly reduce the frequency and severity of work-related injuries and illness. Through participation in an early return-to-work program, employees recover more quickly from work-related injuries, thereby reducing worker's compensation costs.

Written safety programs typically outline:

- Responsibilities of the administrator, supervisors, safety coordinators, safety committee, and employees;
- The agency's safety and health training plan ;
- The agency's safety inspection program;
- Accident reporting and investigation procedures;
- Early return-to-work programs; and
- Emergency procedures and evacuation plans.

The Risk Management Division of the Department of Administration is available to agencies for technical assistance in the development and implementation of safety and health programs.

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VI. CLASSIFICATION AND COMPENSATION

A. THE UNCLASSIFIED SERVICE

The job titles and maximum salaries of classes in the unclassified service are established through legislation. These classes are identified by a "U" class code on the unclassified employees compensation schedule. Positions in the unclassified service include appointed department and agency heads, their deputies, and other positions as authorized by law. The Department of Personnel does not classify or write class specifications for these positions. [NRS 284.140 - 284.147]

B. THE CLASSIFIED SERVICE

Positions in the classified service are allocated to the appropriate class and grade level by the Department of Personnel, which also develops and maintains the Classification and Compensation Plan. This Plan lists all authorized class titles and the grade to which they are assigned. "Class" refers to a group of positions with sufficiently similar duties and responsibilities that the same title, basic qualification standards, and grade level may reasonably and fairly be applied to each.

1. **Classification Plan.** The classification plan groups all authorized class titles into one of eleven broad occupational groups. Within each occupational group there are usually several subgroups. Within each subgroup there may be several series, each comprised of one or more classes. In ascending order, each class designates progressively more complex and difficult duties and/or levels of supervisory/management responsibility.

Example:

- The Fiscal Management and Staff Services occupational group contains eleven subgroups, including Financial, Business Management, Administrative and Budget Analysis, Public Information, Data Processing, Personnel/Training, etc;
- Within the Administrative and Budget Analysis subgroup are series such as Budget Analyst, Management Analyst, and Program Officer; and
- There are four classes in the Management Analyst series: Management Analyst I, II, III, and IV. Management Analyst I is the journey level, II is the advanced journey level, III is a technical expert and/or first-line supervisor of other professional staff, and IV is a second-line supervisor with subordinate supervisors of professional staff.

Each class is assigned a unique class code. The digit(s) preceding the decimal in a class code identify the occupational group. For example, all class codes for titles in the Fiscal Management and Staff Services occupational group begin with the number "7."

Legislative or Interim Finance Committee approval is required to move a position from one occupational group to another. (Note: this requirement does not apply to the University & Community College System, or vocational licensing boards).

2. **Class Specifications.** Class specifications are the official documents used to determine which positions are "sufficiently similar" to share the same title, qualification standards, and grade level. With input from user departments and subject matter experts, personnel analysts develop class specifications describing the nature of work assigned, typical duties and responsibilities, qualification standards, and distinguishing characteristics between classes in a series.

Class specifications are not intended as exhaustive catalogs of all duties that may be assigned to positions in that class. Appropriately classified positions may perform only a portion of duties indicated in the specification for their class, and/or may be assigned duties not indicated on the class specification. [NAC 284.150]

Class specifications for a series begin with a "Series Concept" describing the type and level of work performed at the journey level. "Class Concepts" for each level indicate the factors that distinguish one class from another in a series. "Minimum Qualifications" indicate the type and amount of education and experience typically necessary to acquire the "Entry Knowledge, Skills, and Abilities Required," which form the last section.

3. **Position Classification.** The Department of Personnel conducts position classification in two forms: individual studies and occupational studies, which are described in more detail in sections 3a and 3b, respectively. Individual studies represent the short-term maintenance function, whereas occupational studies fulfill the need for comprehensive maintenance of the classification system based on internal comparisons within occupational groups. In individual studies, the analyst must establish that there has been significant change according to a specific regulatory definition before proceeding to other classification considerations.

The object of the classification function is to identify the most appropriate class for the position in question. Positions allocated to the same class are not expected to be identical, either in type or level of duties. Rather, they need to be "sufficiently similar" in key elements, as defined under "Class Specifications" above. Classes are often comprised of weak, solid, and strong positions, all of which are more appropriately placed in that class than in any other class.

Positions are evaluated and classified in relation to "allocation factors" such as nature and complexity of work; supervisory responsibility; scope of responsibility/consequence of error; independence; authority to take action; personal contacts; and variety and degree of knowledge, skills, and abilities required. These factors are used to compare positions with related positions and with class specifications to identify the most appropriate class. The allocation factors also serve as the basis for comparisons between classes to determine the most appropriate grade level for each class.

Generally, classification decisions must be made on the basis of duties occupying the majority of the position's time.

[State of Nevada Classification and Compensation Plan (Department of Personnel); Class Specifications - Class Code Nos. 1.112 - 12.626 (Department of Personnel); NRS 284.160 - 284.172; 353.224; NAC 284.126 - 284.152]

- a. **Individual Classification Studies.** Through the individual study process, the Field Services Division (or delegated agency personnel staff) responds to classification requests involving new positions and established positions that have undergone significant change. *Reclassification of an existing position through the individual study process requires the presence of significant change as defined in NAC 284.126 (subsection 1.b):* new duties and responsibilities that are outside the scope of the current class specification, and which result in the majority of duties (usually measured by time spent) being allocated to a different class.

An individual classification study may be initiated by an appointing authority, an employee, or the Department of Personnel. The individual study process begins with the submission of a position questionnaire (NPD-19) to the agency personnel officer or the Department of Personnel.

Although the NPD-19 directs several questions to the appointing authority and requests a signature, employees may request a classification review without the support of the agency. In this event, the appointing authority's signature is not required on the NPD-19. Instructions on the form indicate that the questions normally completed by the appointing authority may be completed by the employee. When an NPD-19 is submitted without the appointing authority's signature, a copy is sent to the appointing authority for verification of duties and responsibilities assigned.

If a request results from a *gradual accumulation* of duties and responsibilities, an NPD-19 may be submitted directly to the Department of Personnel. Requests for reclassification due to any reason other than a gradual change (e.g., reorganization) must receive approval by the Budget Division before submission to the Department of Personnel. In these cases, the new duties are not to be required of employees until funding is approved.

Requests for classification or reclassification of data processing positions require prior review by the Department of Information Technology (DoIT) if the agency in which the position is located uses DoIT's equipment or services. [NRS 284.172]

Individual classification studies are normally completed in the Field Services Division of State Personnel. In some cases, however, Field Services will conduct an initial review of an NPD-19, but must forward it to the Technical Services Division for action. These cases include any change that results in the creation of a new class, revision of a class specification, or reallocation of a class to a different grade. *No position will be*

reclassified to a higher grade as a result of an individual classification study unless the incumbent meets the minimum qualifications of the higher level position.

If an employee or agency does not agree with a classification decision, a written appeal may be filed with the Director of the Department of Personnel within 20 working days after notification of the decision is received. [NAC 284.126]

- b. **Occupational Studies.** By legislative directive, the Technical Services Division periodically reviews the classification of every position in the classified service through its ongoing occupational study process. Using position description questionnaires, audits of representative positions in each class, and meetings with managers, an occupational study systematically collects and analyzes data on all positions in a designated occupational group or subgroup. Occupational studies produce the following types of changes:

- Each class specification and title in the studied group is reviewed and updated to reflect the State's current usage of its positions, and to ensure that minimum qualifications are appropriate for use in recruitment;
- Grade levels are reviewed and realigned as appropriate based on allocation factors and comparisons within the occupational group; and
- Several classes may be consolidated into one more generic class, or new classes may be developed.

During the time from formal announcement of an occupational study until its implementation, positions in the study may still be reclassified to existing classes through the individual study process. However, other actions through the individual study process are restricted as follows:

- Existing classes included in the occupational study may not be reallocated to different pay grades;
- New classes may not be created for existing positions covered by the occupational study. (New classes within the studied occupational group may be created for **new positions** if necessary); and
- Existing positions that have experienced significant change may only be reclassified to an existing class.

Results of an occupational study, including the recommended class and grade level of each studied position, are communicated in writing to affected department heads. Individual letters inform all employees in the studied group of the recommendation for their position.

An employee must meet the minimum qualifications of the position to be promoted when an employee's position is reclassified to a higher grade level in a different occupational group. An employee who does not meet the minimum qualifications for promotion may continue to serve in the position for one year and may be eligible for a special salary adjustment of one grade as provided in NAC 284.206. If the employee does not meet the minimum qualifications after one year from the effective date of the reclassification, the duties must be reassigned and the position must be reclassified.

As with individual classification studies, an agency or employee who does not agree with a classification decision may file a written appeal within 20 working days after receiving notification of the decision.

Occupational study results are subject to the approval of the Personnel Commission. Upon approval, position allocation listings are provided to the Budget Division for inclusion in each agency's biennial budget. The Legislature must provide funding before the study results can be implemented.

New groups of occupational studies are announced and conducted biennially. The entire cycle, from formal announcement of groups to be studied through the Legislature's action on recommendations and subsequent implementation, takes close to three years.

4. **Managing Classification Activity at the Agency Level.** Within the controls established at higher levels, managers are responsible for designing and organizing the jobs and functions under their control so as to optimize organizational effectiveness, economy, and productivity. At times this will require a decision regarding whether to assign duties that appear to be outside the scope of a position's current classification. Many agencies expect managers to prohibit employees from working out of their classification without higher-level management approval. Even if there is agreement on the desirability of the change, in some cases the actual assignment of new duties may need to wait until the cost of the potential reclassification can be budgeted.

Appointing authorities are responsible for requesting a classification review (through the individual study process, by submitting an NPD-19) when duties assigned to a position have changed significantly or there are other indications that a position is not appropriately classified. An example of circumstances that should trigger a request for classification review would be the addition or removal of a major portion of duties that appear significantly more or less complex than those assigned to other positions in the same class.

Any of the following determinations may result from a classification review:

- No change in the position's classification;
- Reclassification of the position to an existing class at a higher, lower, or the same grade level as its current class;

- Reallocation of the class to a higher or lower grade level; or
- Creation of a new class if necessary.

With any of these determinations, there are the additional possibilities that the class specification may be revised or the title may be changed to better reflect current usage. If a position is reclassified to a lower grade, or an occupied class is reallocated to a lower grade, affected employees are often entitled to a retained rate of pay for up to four years. Employees are eligible for reappointment to the same or a comparable class from which they were reclassified. Such employees may also be eligible for reemployment within the department in the class from which they were reclassified. [NAC 284.140; NAC 284.290]

Because classification decisions have the potential to affect individuals' income and status, they naturally generate considerable interest, and sometimes passion, on the part of employees and managers. At times this attention is fueled by issues which classification cannot address. Classification addresses the *nature* and *level* of duties assigned. Issues that classification *cannot* address (in the absence of legitimate classification issues) include:

- The desire to motivate or retain an employee who is "topped out" in his/her salary range;
- The desire to reward an employee who is more highly qualified or outperforms other employees with the same duties in the same class;
- An increase in volume of the same type of duties. (This is a workload issue, properly addressed by managers through staffing decisions, job design, etc.);
- Assignment of different duties of the same basic type and at the same level as those previously assigned.

C. COMPENSATION

Following are discussions of the State's major compensation program elements and policies:

1. **Adjustments to the Compensation Plan.** The Department of Personnel conducts a comprehensive biennial salary survey and periodic benefits surveys to assess the State's competitive position in the labor market. Survey participants include various Nevada public and private employers and ten western state governments. Survey data is collected for benchmark classes in each occupational group and classes with a history of high turnover or recruitment difficulty.

Recommendations to the Legislature for across-the-board increases and differential adjustments for selected classes are based on analyses of the survey data and the movement

in the Consumer Price Index. When the Legislature approves such increases, they typically become effective at the beginning of a biennium.

2. **Compensation Schedules.** Compensation schedules are prepared and maintained by the Department of Personnel. Within the classified service, there are special compensation schedules for classified medical employees, professional teaching parents, and employees who participate in the police/fire retirement fund, in addition to the general schedules.

The compensation schedules for classified employees display the salary steps and range for each grade but do not list the classes allocated to each grade. The Classification and Compensation Plan indicates the grade to which each class is allocated. Each grade is comprised of fifteen half-steps. The interval between each whole step (two half-steps) is approximately 4 - 4.5%.

With standard or better performance, classified employees receive a one-step increase each year. When this occurs, progress from the first step to the last step in the range takes seven years.

Schedules for the unclassified service indicate the maximum salary for each class and whether the class is eligible for overtime compensation. There is no grade structure in the unclassified service as there is in the classified service.

As discussed in the Benefits chapter of this Handbook, employees choose to participate in the PERS through either the Employer-Paid (EPR) or Employee/Employer-Paid (E/EPR) options. The gross salary of an employee who elects the EPR plan is lower than the gross salary of an employee at the same grade level and step who elects the E/EPR plan. Therefore, there are separate compensation schedules for each option in both the classified and unclassified service. (See Chapter XI, Employee Benefits, for further information on these two options). [NRS 284.175]

3. **Salary Placement on Appointment.** Departments may independently appoint new employees at Step 1 of the grade for their position, which is the typical starting salary. Accelerated hiring rates (any new hire above Step 1) must be requested on an NPD-4 and approved by the Department of Personnel before a final offer is made. Reasons for which accelerated hiring rates can be considered are: to meet a difficult recruiting problem, employ a person with superior qualifications, or maintain an equitable salary relationship between employees in the same agency for reasons other than seniority. An exception to the requirement to submit an NPD-4 in such cases is granted for those classes having blanket approval for accelerated rate. [NAC 284.204]

NAC 284.170 contains regulations governing salary setting for individuals on their initial appointment in State service and individuals who are reinstated, reappointed, reemployed, transferred, promoted, or demoted.

4. **Special Adjustments to Salaries.** The Department of Personnel may approve a special adjustment equivalent to 5% for individual employees to recognize certain conditions of

employment which are not typical of the class as a whole. These conditions may or may not be temporary, and include:

- Temporarily assuming essentially all of the duties and responsibilities of a higher level class on a continuing basis (special adjustments for this reason cannot continue beyond 6 months in a 12-month period, except as provided in NAC 284.206);
- Required use of bilingual skills or sign language for 10% or more of the work time;
- Being assigned to supervise employees of the same or higher grade **if** such supervision is not part of a program or function provided for in the class specification;
- Working in a division providing inpatient mental health services with the regular requirement to perform custodial work and clean up human bodily waste (when not provided for in the class specification);
- Working in an assaultive environment in a division providing inpatient mental health services with a regular assignment to provide medical treatment, maintain buildings, instruct academic courses, or provide therapy;
- Conducting a formal training program for employees in an occupational class series (see regulation for additional criteria);
- For law enforcement officer, assigned to motorcycle duty;
- For Department of Prisons employees with regular responsibility for the supervision of a group of inmates in the prison setting and being responsible for implementing security measures, when such duties are not provided for in the class specification; and
- Working at a higher grade level when the employee does not meet the minimum qualifications for promotion to the new grade level.

Appointing authorities are responsible for revoking any special adjustment to salary when the conditions on which it was based cease to exist. [NAC 284.206]

5. **Additional Compensation.** The types of additional compensation described below are to be reported on employees' time sheets when applicable:

- a. **Dangerous Duty/Physical Hardship Pay.** Employees performing certain narrowly defined duties listed in the regulations, which are considered to involve extreme danger or physical discomfort, must be paid additional compensation equal to 10% of their basic rate of pay when such duties are not a regular or inherent part of their job. For employees eligible for overtime compensation, this requirement applies to each hour in which the employee engages in such duties. Employees excluded from overtime

compensation must be paid the additional compensation for all regularly scheduled hours on that workday. [NAC 284.208]

- b. **Shift Differential Pay.** Shift differential pay equal to a 5% adjustment must be paid to employees working a scheduled workday of eight or more hours of which at least four fall within the hours of 6 p.m. to 7 a.m. [NAC 284.210]
- c. **Standby Pay.** Standby pay, or equivalent compensatory time off, at the rate of 5% of an employee's regular hourly rate, is available to employees who are directed to remain available for work if called. Standby pay is not applicable to employees excluded from receiving overtime compensation. [NAC 284.218]
- d. **Call-Back Pay.** Under certain conditions, additional compensation must be paid to employees who are called back to work on an unscheduled basis. Eligible employees must be credited with 2 hours of call back pay at the rate of time and one-half. Call-back pay is not available to employees receiving standby pay or employees excluded from receiving overtime compensation. [NAC 284.214]

6. Overtime Pay/Compensatory Time

- a. **Eligibility.** According to the federal Fair Labor Standards Act (FLSA), employers are not required to compensate certain employees for overtime work. These employees include members of the personal staff who are directly supervised by an elected official; appointed department and division heads who serve at the discretion of an elected official; and "exempt" employees, paid on a salary basis, who meet FLSA tests for executive, administrative, or professional exemption.

Nevada state law also addresses eligibility criteria for overtime compensation. For unclassified employees, the provisions of FLSA and State law are the same. In the classified service, however, many who are considered "exempt" from FLSA overtime provisions are **eligible** for overtime compensation under State law. Classified employees, paid on a salary basis, who meet FLSA exemption criteria as executive, administrative, or professional employees, are eligible for overtime compensation under Nevada law unless they are **also** either the head of a department, division or bureau, or a doctoral level professional, as determined by the Department of Personnel.

Employees ineligible for overtime compensation under State law are referred to as "excluded unclassified employees" or "excluded classified employees" in the State personnel regulations. Because these employees must be paid on a salary basis, they are generally required to report only full-day absences (except absences for family and medical leave) and are subject to disciplinary suspensions without pay only in full-week increments. [NAC 284.5895]

Classes designated as excluded are identified by the code "EXC" in the Classification and Compensation Plan and an "E" in the unclassified employees compensation schedule.

- b. **Definitions of Overtime.** The FLSA and State law contain different definitions of overtime work. In both, hours worked in excess of forty in a week are generally considered overtime. (Exceptions may apply to employees involved in law enforcement and fire protection). Additionally, State law generally considers hours worked in excess of eight in one calendar day or in any 16-hour period as overtime. Both the FLSA and state law are applicable to most State employees.

Time an employee is "suffered or permitted" to work is considered under FLSA when calculating the number of hours an employee has worked. Therefore, if it is known or there is reason to believe an employee is working beyond a scheduled shift, the agency may be required to pay overtime even though the overtime was not pre-authorized. Appointing authorities are responsible for controlling the hours during which their employees work.

Fifteen-minute rest periods are considered as time worked; uninterrupted meal periods of 30 minutes or more are not. The State also considers the time an employee is on paid leave as time worked for purposes of determining overtime.

- c. **Authorization of Overtime.** Employees who are limited to working a maximum of eight hours a day and forty hours a week (NRS 281.100, subsection 1) may be permitted or required to work overtime in the case of an emergency involving imminent danger to life or property. (This limitation of hours does not apply to employees who choose and are approved for a variable workday; executive, administrative, professional, or supervisory employees; employees ineligible for overtime compensation; and employees in departments or occupations specifically excluded in NRS 281.100: employees of a fire department, nurses in training or working in hospitals, police, and jailers).

It is expected that the use of overtime in State departments will be kept at a minimum. The Budget Division reviews the amount of overtime worked in each department, and findings are reported quarterly to the State Board of Examiners. Prior approval of the Budget Division is required if the overtime results from a predictable or extended increase in the agency's workload.

Any overtime work must be approved in advance by the appointing authority or a designee. Employees must receive at least four hours' notice of the need to work overtime unless there is an unpredictable emergency. [NRS 284.242]

- d. **Compensation - Cash/Compensatory Time.** Overtime is compensated at the rate of time and one-half an employee's regular rate of pay. The principal method of compensating employees for overtime is cash.

An employee and agency may enter into an agreement that complies with the FLSA to allow an employee to receive compensatory time at the rate of time and one-half instead of cash for overtime. When an employee is represented by SNEA, such an agreement must be between the agency and SNEA. The State Personnel form TS-25 is available

for agencies' use when the agreement is with individual employees. (See "Compensatory Time Off" in Chapter XI, Employee Benefits, for additional information.)

Compensatory time may not accrue in excess of 120 hours unless the employee and agency enter into a further agreement permitting the accrual of additional hours, in which case the agreement may not permit the accrual of more than 240 hours.

Any compensatory time accrued in excess of the accrual limits must be paid in cash. An appointing authority may pay off compensatory time below the accrual limit in cash (e.g., so that accrued compensatory time is not carried forward to a new fiscal year). An employee who has accumulated more than 60 hours of compensatory time (or more than 120 hours, if subject to an agreement allowing the accrual of 240 hours), may request payment in cash for the excess accumulation.

[Fair Labor Standards Act of 1938; NRS 281.100, 284.148, 284.180, 284.181; NAC 284.250 - NAC 284.258]

- e. **Nonstandard Schedules as an Alternative to Overtime.** It is sometimes possible to limit the need for overtime through the use of a variable workday or innovative workweek. With the appointing authority's approval, employees may choose to work a variable workday. This is accomplished through a written agreement allowing employees, with supervisory approval, to adjust their daily work schedule to work more than eight hours a day as long as the total hours worked do not exceed forty in a workweek. The Department of Personnel form TS-78 is available to document such an agreement.

Agencies may also experiment with innovative workweeks with the approval of the agency head and the consent of the majority of affected employees. An innovative workweek consists of a work schedule other than five shifts with the same number of hours each day, but which maintains the forty-hour maximum in a workweek as defined by the pay center serving the agency. Examples include: four 10-hour shifts, or four 9-hour shifts and one 4-hour shift. Before being implemented, an innovative workweek schedule should be documented in a written agreement with the affected employees. Under such an agreement, overtime is generally considered only if hours worked exceed forty in a week.

Note: In agencies where coverage is needed on weekends and holidays, employees may be required to work nonstandard workweeks (other than Monday through Friday). A written agreement with affected employees is not required in this case.

- 7. **Merit Salary Increases.** Appointing authorities are required to submit annual performance evaluations for each permanent classified employee in their agency. Employees who have not reached the top step of their grade must receive a merit salary increase of one step (two half-steps) on their pay progression date if their performance evaluation rating is standard, above standard, or outstanding. If an appointing authority does not file the required

performance evaluation within 30 days after the date the evaluation is due, the employee's performance is considered standard, and the increase will be granted.

If a performance evaluation with a substandard rating is filed, any scheduled merit increase is withheld. The appointing authority is required to file another performance evaluation at least every 90 days until the employee's performance improves to standard or disciplinary action is taken. In the former case, the effective date of the increase is that designated by the agency as the date the employee's performance improved to standard or better. If the agency does not file the required performance evaluation within 30 days after the date it is due, the employee's performance is considered standard, and the employee is entitled to the increase on the day the report was due. [NAC 284.194; NAC 284.174; NRS 284.340]

An employee's pay progression date is typically the date the employee completes one year (full-time equivalent) of employment, counting from the date the employee is appointed to their current grade. Personnel actions such as promotions, demotions, and leaves of absence without pay in excess of 240 hours a year can affect the pay progression date (see NAC 284.182).

[NAC 284.174 - NAC 284.202]

8. **Longevity Pay.** An employee with eight or more years of continuous State service, and whose performance is currently rated standard or better, is eligible for longevity pay. (See Employee Benefits, Chapter XI).

VII. PAYROLL AND RECORDKEEPING REQUIREMENTS

State of Nevada employees are paid through one of several pay centers within the State: the Department of Personnel, the University System, the Department of Transportation, Legislative Council Bureau, or the Public Employees Retirement System. Procedures described in this chapter apply to both classified and unclassified positions.

A. PAY PERIODS, PAY RATES, AND WITHHOLDING

The State's official base rates of pay are bi-weekly or semi-monthly depending on the pay period used by the applicable pay center (NAC 284.158). Centers with bi-weekly rates may use reporting periods that differ from each other. Pay centers also use different time reporting documents.

Employees hired after April 1, 1986, are subject to withholding for Medicare. Employees not participating in the retirement system because their position is ineligible, or they work no more than 20 hours per week, are subject to withholding for Social Security as well as Medicare. State of Nevada employees are not subject to withholding for State or local income taxes.

B. FINAL CHECKS FOR TERMINATING EMPLOYEES

Agencies are encouraged to submit the paperwork required to generate final checks for terminating employees as early as possible. However, the Nevada Attorney General's Opinion 81-9 exempts the State of Nevada as an employer from NRS 608.020 - 608.050 which requires private sector employers to provide final checks to terminating employees within specific time frames.

C. PERSONNEL/PAYROLL ACTION FORM

The personnel data maintained by each pay center must also be reported to the Department of Personnel as required by NAC 284.702. Employment Status Maintenance Transaction (ESMT-A) and Employment Personal Information (ESMT-B) are the primary forms used to report employee information. It is required to hire, terminate, promote, transfer, or effect changes in the master record maintained for each employee.

D. RECORDS RETENTION SCHEDULE

Copies of records retention schedules for the following personnel files are included as an appendix to this Handbook:

- Employee Service Jackets, maintained for all executive branch agencies by the Records Section;
- Agency copy;

- Supervisor's copy; and
- Americans with Disability Act (ADA) records, which include any document referring to the health, medical condition, or disability of any employee, whether or not the employee has a disability. Under the ADA, no information of this nature may be retained in personnel files.

Additionally, the Personnel section of the General Records Retention Schedule for Nevada State Agencies requires the following minimum retention periods:

- Recruitment files for three years from the date the recruitment process is closed;
- Unsolicited application files for one year from date of receipt;
- Complaints and Grievance case files for three years from the closing date of the case.

VIII. FILLING VACANCIES

A. OVERVIEW

This chapter outlines the procedures for filling new and vacated classified positions. See the flow chart entitled "The Employment Process" for an overview.

The State operates under a Merit System, i.e., "Appointments in the classified service must be made according to merit and fitness from eligible lists prepared upon the basis of examination, which must be open and competitive," except as otherwise provided by law in NRS 284.150. An important exception to the requirement for open competition is in NRS 284.295, which states "vacancies in positions must be filled so far as practicable, by promotion. . . Promotions must be based upon merit and fitness. . ." Other exceptions are noted in NRS 284.305.

Filling positions under a merit system can take more time than you may expect. If a testing device needs to be developed, or if the position is hard to recruit and requires advertising, time frames of 60 days or longer may occur. Your consideration of the following options and requirements will help you eliminate or reduce the amount of time positions are vacant pending recruitment:

1. *Re-employment* candidates must be hired if they meet the qualifications for the vacant position. Re-employment as a result of military leave or downward reclassification (see Section G.6 in this chapter) applies only to the department in which the military leave or downward reclassification took place. Re-employment lists from layoffs are issued on a statewide basis. Candidates will appear in seniority order and must be hired in that order (see Section C.1). If the agency establishes the need for selective qualification criteria, in addition to those required for the class as a whole, re-employment candidates must also meet those criteria. Exceptions to these procedures for the hire of re-employment candidates can be made only when an appointing authority submits a written justification to the Governor and obtains the Governor's written concurrence.
2. Instead of or in addition to requesting a recruitment or using an existing eligible list, hiring authorities may consider candidates available through any of several *noncompetitive processes* including transfer, reinstatement, reappointment, and voluntary demotion, as well as 700-Hour Rehabilitation clients. (See the flow chart entitled "Noncompetitive Appointments.") These appointment types are described in section G of this chapter. Most of them require that applicants make their intentions known to the appointing authority. Names of applicants for these options may not appear on hiring lists. Some of the options also require approval by the Department of Personnel.

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(3 OF 3 PAGES OF EMPLOYMENT PROCESS FLOW CHART GOES HERE.)

(NON-COMPETITIVE HIRING PROCESSES FLOW CHART GOES HERE.)

3. There may be an *existing eligible list* from a previous recruitment that is appropriate for your vacancy. If there is no appropriate existing list, a new recruitment may be conducted. Lists that were originally developed from an open competitive recruitment can be reconfigured to provide promotional preference, and vice versa, as long as the original recruitment was open to all the groups specified in the current situation. Additionally, when an agency has established the need for selective qualifications beyond those required for the class as a whole, a selective certification list can be developed from a generic list by including only those applicants who possess the specialized qualifications.
4. Upon request, recruitment can be initiated in anticipation of a vacancy, rather than waiting until a position is vacant.
5. If none of the above are viable options and you need to fill a vacancy before a recruitment can be completed, several types of temporary appointments may be useful. *Emergency* and *provisional* appointments do not require a certified eligible list. Other *temporary* appointments may be made from certified lists of candidates who have indicated their willingness to accept temporary work. All of these appointment types have different time limitations. See Section G of this chapter.

B. RECRUITMENT AND EXAMINATION

If there is no appropriate eligible list and you do not wish to appoint a candidate available through a noncompetitive process, a recruitment may be conducted by the appropriate personnel office. See the flow chart entitled "The Recruitment Process." The Department of Personnel may request agencies' participation in deciding the type of exam to use and in the development of assessment procedures, identifying qualified applicant sources, and recommending advertising and outreach strategies. [NAC 284.296]

1. **Types of Recruitment.** The Department of Personnel will work with the hiring agency to determine the best type of recruitment based on the number of current or anticipated vacancies over the next year, the anticipated number of applicants based on recruitment history for the class, and whether sufficient expertise exists within State service.

Agency personnel offices typically serve as the focal point for requests from their managers for existing hiring lists or new recruitment. In agencies without personnel offices, appointing authorities may make these requests directly to State Personnel either by phone or by completing and submitting an NPD-3. The NPD-3 requests information concerning the department and the vacant position, including any special or additional requirements for the recruitment or certification. The type of recruitment or eligible list desired, such as promotional or open competitive is also specified on the NPD-3.

(RECRUITMENT PROCESS FLOW CHART GOES HERE.)

NPD-3's should be submitted to the Department of Personnel office which serves the geographic location of the vacant position:

North: Department of Personnel
Field Services Division
209 East Musser, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150

Tonopah and South:
Department of Personnel
555 East Washington, Suite 1400
Las Vegas, Nevada 89101
(702) 486-2900

In deciding whether to request open competitive recruitment, the hiring authority must consider:

- the number of available employees, pursuant to NRS 284.295;
- the need to provide to all citizens a fair and equal opportunity for public service;
- the composition of the work force in relation to the State's affirmative action plan; and
- the needs of the agency, including any potential affect on external funds.

[NAC 284.297, NRS 284.295]

Competition in promotional recruitment is limited to current State employees who have served at least six months of continuous full-time classified service and may restrict the recruitment to applicants from the division or department in which the vacancy occurs. If there is sufficient expertise in your division or department, limiting the recruitment may be appropriate. (See Section C.2 of this chapter for information on the order in which candidates from ranked lists must be considered).

2. **Announcements.** Public notice of each open competitive recruitment is given by a recruitment announcement published by the Department of Personnel. When the recruitment is strictly promotional, only the affected departments or divisions receive an announcement.

The announcement includes the class title, salary and grade, filing period and location; information relating to minimum qualifications and any special conditions of employment; a brief description of the class or position; and the type of examination(s), exam components, subjects to be covered, and other related matters [NAC 284.334]. If selective qualification criteria are established in addition to those required for the class as a whole, these will also be included in the announcement.

3. **Applications.** Each applicant must file an application in the office of the Department of Personnel or its designated representative as specified in the announcement. Mailed applications must be postmarked by midnight of the closing date specified in the public notice of recruitment. [NAC 284.310]

Employment applications for certain classes are filed directly with the hiring agency. The Department of Personnel's involvement in these recruitments is generally limited to the publication and dissemination of the recruitment announcements. Examples include Mental Health or Mental Retardation Technician I, Psychiatric LPN, and Registered Nurse. In other classes, such as Clerical Trainee, Custodial Worker, Highway Construction Aid and Highway Maintenance Worker I & II, applications may be submitted to the Nevada Employment Security Division (ESD). Hiring agencies may receive applicant referrals directly from ESD in these cases.

Competition in a recruitment is limited to applicants who meet the minimum qualifications and any additional criteria identified for the class or position. It may be further limited to those applicants who indicate on their application a willingness to accept conditions of employment such as extensive travel, as specified in the announcement.

The Department of Personnel or its designee determines which applicants meet the requirements as specified in the public notice of recruitment. At times, it may be necessary for a department to consult with subject matter experts to assist in screening applications.

The Department of Personnel or employing agency may investigate an applicant's past employment, education and experience, and, in certain instances, may require a thorough background check. [NAC 284.302]

4. **Examinations.** If an examination is required, it may be written, oral, a training and experience evaluation, a performance test, or a combination of these forms. Applicants are responsible for their own travel and related expenses incurred in the examination process for State positions.

Not all positions require formal examinations. For some entry level, unskilled or semi-skilled jobs, the applicants are evaluated as to experience and fitness for the job. Likewise, for some positions requiring licensure, such as a registered nurse, the examination and certification process are waived.

If a competitive recruitment produces five or fewer qualified applicants, the examination may be waived except for fiscal management classes, which require successful completion of a written examination as part of the minimum qualifications.

Like written examinations, oral examinations are used to evaluate knowledge, skills, and abilities, but usually cover areas which cannot be easily tested on a written examination. These may include supervisory skills, verbal expression, etc. An oral examination is usually administered by a three- or four-member oral board, comprised of State employees and individuals from private industry who are knowledgeable in the field to be tested.

A scored rating of training and experience (T&E) does not require the candidate to appear. When a T&E is used as an examination, the employment application requests detailed information with time frames on education and experience, and/or a supplemental questionnaire is added to the application process. The information in both of these are scored against weighted, job-related criteria.

When a job calls for a combination of tests, e.g., a written and oral examination, candidates may be required to pass the written examination before participating in the oral test. The applicant must receive a passing score on each portion of the examination to receive an overall passing score. [NAC 284.338]

If the applicant is a Nevada resident, five residents' preference points are added to a passing score. Five points are given to all veterans and widows of veterans with passing scores, and five additional points to disabled veterans. Persons eligible for veterans' preference points are entitled to have such points applied to all scores on open competitive examinations, but only to *one* promotional examination. [NAC 284.342; NRS 284.260]

If a grievance is filed concerning an examination, the Director of Personnel will not fill any vacancy from the list established pursuant to that examination, unless there is an urgent and compelling need. [NAC 284.355] Depending on the resolution of the grievance and whether 30 days have passed since the original certification date, a new list may be certified for use by the agency.

The administration of an examination may be modified to accommodate an applicant's disability if the modification does not alter the reliability of the examination in testing the person's ability to perform the essential functions of the position. [NAC 284.354]

C. ELIGIBLE LISTS AND CERTIFICATION

See the flow chart entitled "Eligible Lists (Classified Positions)", for an illustration of this process. NAC 284.382 indicates that initial contact to determine applicants' availability may be made orally, in writing, by mail or by telegram. It also specifies the periods of time allowed for applicants to respond using each of these means of communication. (If the contact is with a layoff re-employment candidate, use NAC 284.378, section 1.B instead).

1. **Layoff Re-employment.** This type of list, made up of qualified employees who have been laid off, has priority over any other current list for the class. If the agency successfully demonstrates a need in its vacant position for selective qualification criteria beyond those required for the class as a whole, those criteria may be required of re-employment candidates. Re-employment rights extend for one year following layoff. The list is ranked in seniority order, and the position *must* be offered to each individual in the order listed until there is an acceptance. Only after *all* layoffs refuse the position may another appropriate list be used. Bypassing this order of hire for re-employment candidates requires the Governor's approval. [NAC 284.378, section 1; NAC 284.630]

(ELIGIBLE LIST FLOW CHART GOES HERE.)

2. **Ranked Lists.** The four types of ranked lists are shown below in priority order. On a ranked list, all candidates appear in order of final score within each recruitment type, including preference points for veterans and residents. If a recruitment uses more than one type of promotional list, any list with higher priority must also be included, unless the appointing authority certifies in writing it is in the best interests of the agency to do so. Other exceptions are made for classes designated as entry level (EL) in the class plan, and for those in which promotional candidates are normally not available. [NAC 284.295]

Appointments from ranked lists must be made from persons achieving the top five eligible scores willing to accept the position. [NAC 284.382] All names on a list with higher priority must be considered before names from the next list. If there are fewer than 5 eligible persons on the first type of list requested, names at the top of the next type of list may be added to arrive at the five highest ranks.

- a. **Divisional promotional** - This list is made up of qualified employees in the division where the vacancy exists who have worked in classified service for six months full-time equivalent (FTE) by the close of recruitment.
- b. **Departmental promotional** - This list is made up of qualified employees in the department where the vacancy exists who have worked in classified service for six months FTE by the close of recruitment.
- c. **Statewide promotional** - This list is made up of qualified employees in the State system who have worked in the classified service for six months FTE by the close of recruitment.
- d. **Open Competitive** - This list is made up of qualified individuals with no preference given to State employees.

Two other types of lists do not involve the competitive examination process. An agency has the option of appointing anyone from these lists:

3. **Transfers** - State employees currently working in the requested class and option who desire a transfer may be shown at the top of a list in a separate category. It is the agency's option to appoint from this group and/or proceed to the ranked portion of the list. Transfers are not counted as part of the "Top Five," and may also be appointed without appearing on a list.
4. **700-Hour** - 700-hour rehabilitation clients are not counted as part of the "Top 5," but are available in addition to these. They may be appointed to a position with or without consideration of any of the Top 5 candidates. Their names must appear on the list to be considered.

5. **Unranked Lists** - Lists may be **unranked** or **waived** if the class being recruited:

- Had a maximum salary no greater than \$12,500 on December 31, 1980;
- Is designated in the class plan as Entry Level (EL); or
- Normally does not have promotional candidates [NAC 284.363].

On unranked or waived lists, the agency must attempt to communicate with at least five eligible persons who they deem to be the most qualified or all the eligible persons if there are fewer than five. If requested, the Department of Personnel will certify the list in score order to assist agencies in determining the most qualified candidates. On an unranked list, however, consideration is not limited to the top five ranks. Applications for persons on the list are available for review at the Department of Personnel. Personnel must retain the original applications for audit purposes. Resources are not currently available to provide copies of applications to recruiting agencies. [NAC 284.378]

The normal term of eligibility for candidates on a list is one year. List life may be extended by the Department of Personnel for up to three years. [NRS 284.250]

The Department of Personnel may conduct recruitment and administer examinations on a continuous basis for classes with high turnover, a large number of positions and/or difficulty in recruiting. Eligibility in a continuous recruitment exists from the date of examination. [NAC 284.330]

If there is no existing list for the vacant classification, the Department of Personnel may certify a list of a comparable class.

[NAC 284.378]

D. EMPLOYMENT DECISIONS TO BE BASED ON ESSENTIAL FUNCTIONS

Under Title I of the Americans with Disabilities Act (ADA), employment decisions must be based on an individual's ability to perform the essential functions of a position with or without reasonable accommodation. Essential functions are those that must be performed in a given position and are not marginal. The emphasis is on the individual's ability to perform the function, not the means through which it is accomplished.

The Department of Personnel has issued guidelines on Title I of the ADA, which include forms to identify and document essential functions. These should be kept on file continuously for all positions. If they have not been developed prior to filling a vacancy, they should be done at that time. They are key to determining whether a person with a disability is qualified for a specific job. This information may also provide insight as to special requirements of the position, which may need to be listed on recruitment announcements.

E. PERSONAL INTERVIEW

The personal interview is a critical part of the hiring process. It is important that the interviewer know the agency, its internal relationships, purpose, policies and practices so that its hiring objectives are met. Interviewers should have specific information to explain what the person in the job needs to know including a copy of the position description and/or work performance standards. They should know as much as possible about the tasks, equipment and tools used in performing the job. They should also be prepared to answer questions about salary and benefits.

All questions asked of a job applicant must be job-related. The essential functions of the position should be presented to each interviewee and form the basis of the hiring interview. Appointing authorities should document the steps taken to ensure that essential functions were clearly identified, that each candidate reviewed these as part of their interview, and that they formed the basis of the hiring interview. [NAC 284.357]

A standard set of questions should be developed and asked of each interviewee. You should, however, feel free to add job-related follow-up questions to information presented by individual candidates during the interview or in the application materials. When such questions are occasioned by individual candidates' responses, they need not be asked of all candidates.

Before the interview, review the application and identify gaps in information that you may want the applicant to explain. You may want to ask for more detail about past experience and education.

Consider including others in the interview. A selection committee may help make the process more objective and provide valuable input.

Although the focus during the interview is on the applicant, interviewing is an interaction between individuals. A favorable first impression is as important for the interviewer as it is the interviewee. By setting a relaxed, open tone, an interviewer is more likely to elicit spontaneous, job-related information without making the candidate uncomfortable. Hold the interview in a private area that provides a relaxed atmosphere.

Discreet notes may be taken during the interview. Ask open-ended questions, rather than ones that can be answered with a simple "yes" or "no." Good questions frequently begin with:

"Tell me about...."

"Describe...."

"Explain...."

Assumptions should not be made based on any information you have about the applicant's personal situation. For example, it should not be assumed that a non-standard shift would

be out of the question because an applicant has small children . The issue is availability to work odd hours. Therefore, the applicant should be asked directly about availability to work odd hours and not about children.

Employment decisions based on an individual's race, color, religion, sex, age, disability, or national origin are unlawful. [NRS 613.330, Title VII of the Civil Rights Act, and the Americans with Disabilities Act] Pre-employment questions about any of these characteristics, or questions likely to elicit information about them, are illegal. The following guidelines on specific topics and questions at the pre-employment stage are adapted from the Nevada Equal Rights Commission's "Pre-Employment Guide."

PRE-EMPLOYMENT INQUIRY GUIDELINES

| ACCEPTABLE | SUBJECT | UNACCEPTABLE |
|---|------------------|---|
| Name. "Have you ever used another name?" or "Is any additional information relative to change of name, use of an assumed name, or nickname necessary to enable a check on your work and education record? If yes, please explain." | NAME | Maiden name. |
| Place of residence. | RESIDENCE | "Do you own or rent your home?" |
| Statement that hire is subject to verification that applicant meets legal age requirements. | AGE | Age. Birth date. |
| "If hired can you show proof of age?" | | Dates of attendance or completion of elementary or high school. |
| "Are you over 18 years of age?" | | Questions which tend to identify applicants over age 40. |
| "If under 18, can you, after employment, submit a work permit?" | | |

| ACCEPTABLE | SUBJECT | UNACCEPTABLE |
|---|--|--|
| "Can you, after employment, submit verification of your legal right to work in the United States?" or Statement that such proof may be required after employment. | BIRTHPLACE CITIZENSHIP | Birthplace of applicant, applicant's parents, spouse, or other relatives. "Are you a U.S. citizen?" or Citizenship of applicant, applicant's parents, spouse, or other relatives. Requirements that applicant produce naturalization, first papers, or alien card prior to employment. |
| Languages applicant reads, speaks, or writes. | NATIONAL ORIGIN | Questions as to nationality, lineage, ancestry, national origin, descent, or parentage of applicant, applicant's parents, or spouse. "What is your mother tongue?" or Language commonly used by applicant. How applicant acquired ability to read, write, or speak a foreign language. |
| Name and address of parent or guardian if applicant is a minor. | SEX, MARITAL STATUS, FAMILY | Questions which indicate applicant's sex or marital status. Number and/or ages of children or dependents. Provisions for child care. Questions regarding pregnancy, child bearing, or birth control. |
| Statement of company policy regarding work assignment of employees who are related. | RACE, COLOR | Name or address of relative, spouse, or children of adult applicant. "With whom do you reside?" or "Do you live with your parents?" Questions as to applicant's race or color. Questions regarding applicant's complexion or color of skin, eyes, hair. |

| ACCEPTABLE | SUBJECT | UNACCEPTABLE |
|---|--|---|
| <p>Statement that photograph may be required after employment.</p> <p>Physical agility tests without medical components (e.g., blood pressure readings) may be given before making an offer.</p> <p>Likewise, work or management style inventories and tests designed to assess integrity, honesty may be given before an offer is made, if their purpose is <u>not</u> to detect psychological disorders.</p> <p>After making an offer of employment and before the applicant begins to work, the employer may condition the offer on the results of a medical or psychological examination, if all employees in the same job category are subjected to the examination.</p> | <p>PHYSICAL DESCRIPTION PHOTOGRAPH</p> <p>PHYSICAL & PSYCHOLOGICAL CONDITION, DISABILITY</p> | <p>Questions as to applicant's height and weight.</p> <p>Require applicant to affix a photograph to application.</p> <p>Request applicant, at his or her option, to submit a photograph.</p> <p>Require a photograph after interview but before employment.</p> <p>Questions regarding applicant's general medical condition, state of health, or illnesses.</p> <p>Questions regarding previous workers' compensation claims or receipt of Worker's Compensation.</p> <p>"Do you have any physical disabilities or handicaps?"</p> <p>"Do you have any physical condition or handicap which may limit your ability to perform the job applied for? If yes, what can be done to accommodate your limitation?"</p> <p>"How many days were you sick (last year) (last five years, etc.)?"</p> |
| <p>Statement by employer of regular days, hours, or shifts to be worked.</p> | <p>RELIGION</p> | <p>Questions regarding applicant's religion.</p> <p>Religious days observed or "Does your religion prevent you from working weekends or holidays?"</p> |

| ACCEPTABLE | SUBJECT | UNACCEPTABLE |
|---|------------------------------------|---|
| "Have you ever been convicted of a felony, or, within (specified time period) a misdemeanor which resulted in imprisonment?" (Such a question must be accompanied by a statement that a conviction will not necessarily disqualify applicant from the job applied for.) | ARREST, CRIMINAL RECORD | Arrest record or "Have you ever been arrested?" |
| Statement that bonding is a condition of hire. | BONDING | Questions regarding refusal or cancellation of bonding. |
| Question regarding relevant skills acquired during applicant's U.S. military service. | MILITARY SERVICE | General questions regarding military services such as dates, and type of discharge. Questions regarding service in a foreign military. |
| | ECONOMIC STATUS | Questions regarding applicant's current or past assets, liabilities, or credit rating, including bankruptcy or garnishment. |
| "Please list job-related organizations, clubs, professional societies, or other associations to which you belong - omit those which indicate your race, religious creed, color, national origin, ancestry, sex, age, or disability." | ORGANIZATIONS, ACTIVITIES | "List all organizations, clubs, societies, and lodges you belong to." |
| "By whom were you referred?" | REFERENCES | Questions of applicant's former employers or acquaintances which elicit information specifying the applicant's race, color, religious creed, national origin, ancestry, disability, medical condition, marital status, age, or sex. |
| Name and address of person to be notified in case of accident or emergency. | NOTICE IN CASE OF EMERGENCY | Name and address of relative to be notified in case of accident or emergency. |

F. HIRING DECISIONS

1. **Reference Checks.** Reference checking plays a key role in making employment decisions. Before investing time and money in training a new employee you should spend a few minutes doing thorough reference checks of candidates you are considering for employment. It is recommended you contact individuals who have directly supervised the candidate. At a minimum, you will want to verify dates of employment and duties and responsibilities of the applicant. You may want to inquire about the applicant's attendance, dependability, ability to assume responsibility and follow instructions, type of supervision needed, overall attitude, quality and quantity of work, and any specifics related to your particular vacancy. Applicants authorize the State of Nevada to conduct such inquiries by their signature on page 4 of the State of Nevada Employment Application.

Please note, you may not ask questions in pre-employment reference checks that you are prohibited from asking applicants (see preceding Pre-employment Inquiry Guidelines chart).

Areas you may want to question:

- Applicant's strong points;
- Getting along with co-workers, supervisors, clients, others;
- Dealing with conflict;
- Working under pressure;
- Types of problems/situations applicant handled well and/or poorly;
- Any difficulties that may have interfered with the ability to get the job done;
- Would you re-hire this individual? Why or why not;
- Is there anyone else with whom I should speak regarding individual's work; and
- Is there anything else you can add that would help us make our decision.

If the applicant is a current State employee, their employment file located in the Department of Personnel's Records Section is available for your review. [NAC 284.726,2(e)]

2. **Fraudulent Information.** If, during the course of your reference checks, you determine that an applicant has made a false statement of any material fact or has practiced or attempted any deception or fraud in the application for employment, you should notify the Director of the Department of Personnel in writing. The Director will assess the information and may remove the applicant from the eligible list. [NRS 284.240, NRS 284.245, NAC 284.314 and NAC 284.374,1(f)].
3. **Offer of Employment.** When making an offer of employment, you and the candidate should agree on the start date, location, work hours, and the starting salary. [Note: a hiring salary above Step 1 must be approved by the Department of Personnel, per NAC 284.204.]

If the position affects public safety, the applicant may be subject to testing for controlled substances. [NRS 284.4066 through NRS 284.4068, NAC 284.886, NAC 284.894 and the State of Nevada Alcohol and Drug Testing Program].

Applicants interviewed but not selected for the position should be notified promptly.

- a. **Reasonable Accommodation for Disabilities.** As an employer, your focus until you make a job offer should be on whether applicants can perform the essential functions of the job, with or without accommodation, and which applicant(s) is best qualified to do so. The ADA specifically intends to postpone consideration of any medical or disability-related information until a conditional job offer is made. Candidates have the right to request accommodation for disabilities at the time an offer is made.

An employer must determine whether a requested accommodation is reasonable. A reasonable accommodation is defined as a modification to the job or working conditions which would enable a person to perform the essential functions of the job, or enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, and which does not impose an undue hardship on the employer.

If you need help assessing a request for accommodation, you can contact your agency's ADA Coordinator, or the Department of Personnel's Technical Services Division. If the requested accommodation involves workplace technology, contact the Nevada Assistive Technology Project or the Department of Employment, Training and Rehabilitation, Division of Rehabilitation.

Be aware that excessive cost in itself is not likely to constitute undue hardship for a State of Nevada agency. If an agency determines it cannot pay for a requested accommodation which is otherwise reasonable, it must refer the request to the Budget Division, which will evaluate it in relation to the State's overall resources. Additionally, employers are obligated to determine whether the portion of the cost that constitutes "undue hardship" can be borne by a rehabilitation agency or the requesting individual.

G. APPOINTMENTS

All appointments or employment in public service **must** be reported to the Director of Personnel via the ESMT-A or PAF (University System) form. [NRS 284.285; NAC 284.383]

The State's classified personnel system allows for the following types of appointments:

1. **New Hire.** This is the initial appointment of a person to state government. Unless the recruitment was an "application to agency," these appointments are made from an appropriate hiring list or "Certified List." Appointees are probationary for six months full-time equivalency if hired at grade 22 or lower, and twelve months full-time equivalency if hired at grade 23 or higher.
2. **Promotion.** A promotion is an advancement to a higher grade than that previously held. It may occur within an employee's current position (through reclassification or automatic advancement), or by appointment to a vacant position with a higher grade. A permanent employee who is promoted to a vacant position serves a "trial period" of the same length as

the probationary period for the classification. If permanent status has not been attained in any class previously held, the promoted employee's status is probationary. [NRS 284.295; NAC 284.088; 284.090; 284.108; 284.134; 284.138; 284.190; 284.462]

3. **Transfer**

- a. **Voluntary Transfer.** An employee may voluntarily transfer between agencies and locations within the same or a related class. The names of transfers appear only on Certified Lists for the same class title and option as currently held by the incumbent.

Transfer to a similar class requires approval of State Personnel Department.

These transfers must not exceed the grade level of the class from which the employee is transferring. The duties and grade level of the class to which transferred must be comparable to the duties and grade level of the class currently occupied. [NRS 284.375; NAC 284.390]

- b. **Involuntary Transfer.** A manager may transfer an employee involuntarily to a position in the same or a similar class, but may not do so for the purpose of harassing or disciplining an employee. If the transfer will last longer than ten working days, notice of five working days to the affected employee is required. [NRS 284.376, NAC 284.390]
- c. **Transfers from Unclassified and Nonclassified Services.** Transfers from the unclassified and nonclassified services are allowed in certain circumstances. Employees who have served for at least four consecutive months in the Supreme Court, executive or legislative branch may transfer to a classified position having similar duties and compensation. This is a non-competitive appointment and is not made from a certified list. Such transfers may not be made to professional and executive positions unless the employee's current appointment was immediately preceded by an appointment in the classified service. [NRS 284.3775; NAC 284.398]

- 4. **Reappointment.** A current employee may be reappointed to a formerly held class or to a comparable class if they meet the current minimum qualifications and the appointing authority approves. Names of reappointment candidates do not appear on certified lists. The grade of the class to which reappointed, may not exceed the current grade of the class formerly held. State Personnel must approve comparable reappointments. [NAC 284.404]
- 5. **Reinstatement.** Any person who attained permanent status and separated without prejudice in accordance to the standards set in NRS 284.240 may be considered for reinstatement to the same or a comparable class within 2 years of the date of separation. The grade of the reinstatement class may not exceed the current grade of the class held at time of separation. Current minimum qualifications for the requested position must be met. Reinstatements do not appear on certified lists and comparable reinstatements must be approved by the State Personnel Department. [NRS 284.330; NAC 284.386]

6. **Reemployment.** This category has five types of appointments, none of which result in a break in service. The grade of reemployment may not exceed the current grade of the class formerly held.
- a. **Military.** Military reemployment entitles a person to appointment to the same or similar class within the department from which qualifying military leave was granted. Persons eligible for military reemployment do not appear on certified lists. Departments are responsible to be aware of the potential for such reemployment and to grant it when requested. [38 U.S.C. 2021 to 2026 NAC 284.385]
 - b. **Layoff.** Layoff reemployment is an appointment of a permanent employee who has been laid off because a position or department was abolished or transferred to a different geographical location as defined in NAC 284.612. Such an employee is entitled to reemployment for one year anywhere in state service to any class at or below the grade level of the class occupied when the layoff occurred. The employee must meet the minimum qualifications for each class in which reemployment is requested. Reemployment candidates are placed on certified lists in order of seniority and must be offered the position in the order in which they appear. Any exception to this rule requires the Governor's approval. A reemployed employee is on true probationary status if appointed to a different class or department than the class or department of layoff. [NRS 284.254 and 284.380; NAC 284.385]
 - c. **Reemployment on Reclassification.** Eligibility for reemployment also occurs when an occupied position is reclassified to a lower grade. The incumbent is entitled to the first vacancy for the prior class and option that occurs in the same department within one year of the date of the reclassification. These names do not appear on eligible lists. It is the responsibility of the department to offer any vacancy in the previous class and option to an employee whose position has been downwardly reclassified. An employee who declines such a reemployment offer forfeits all reemployment rights as well as rights to retained rate of pay. [NAC 284.385; NAC 284.140]
 - d. Seasonal reemployment allows former seasonal employees to be reemployed when the provisions in NRS 284.434 are met.
 - e. Reemployment because an employee sustained a permanent disability arising from a disability related to work entitles the person to reemployment by the department with which the employee was employed at the time he sustained his permanent disability as determined pursuant to NAC 284.6013 and within the same class and option as his regular position or in another class as provided in NAC 284.6014.
7. **Voluntary Demotion.** Current employees may take a demotion to a position in a class with a lower grade if they meet the current minimum qualifications. [NAC 284.402]
8. **Seasonal.** Former seasonal employees may be reemployed when the provisions in NAC 284.434 are met. Reemployment rights for a period of one year from the date of separation from a seasonal position **must** be granted to seasonal employees who have attained permanent

status. The appointing authority **may** grant reemployment rights to seasonal employees who have not attained permanent status. Rights are limited to the same class, option and department where last employed. These lists must be maintained by the employing department.

A manager may reemploy a former employee who held a seasonal position in another department, or in a comparable class, if otherwise eligible. These discretionary employment situations require the approval of the State Personnel Department. [NAC 284.434]

9. **Temporary.** Temporary appointments are made from a certified list of candidates who have indicated that they will accept a temporary position. Such appointments are limited to six months in any 12-month period, unless they are replacing an employee who is receiving temporary total disability benefits pursuant to NRS 616 and 617. The manager must indicate the probable length of employment on the certification request. [NRS 284.325; NAC 284.414]
10. **Emergency and Provisional.** Two types of temporary appointments can be made without a Certified List. These are used when a vacant position would jeopardize the integrity of a program or under emergency conditions. [NRS 284.310]
 - a. **Emergency.** An Emergency appointment may be made to a vacant position for no more than 60 **working** days in any consecutive 12-month period without regard to the rules governing classified appointments. No evaluation of minimum qualifications is required. [NRS 284.315; NAC 284.410]
 - b. **Provisional.** Provisional appointments may be made if the appropriate hiring list has fewer than four ranks of eligible persons available for appointment and State Personnel Department approves such an appointment. The appointee must meet the minimum qualifications for the class. A recruitment must start within 30 days of the effective date of the provisional appointment. The provisional appointment may last no longer than 30 days after completion of a recruitment producing more than five available and eligible candidates. No person may receive more than one provisional appointment or serve more than 6 months in any consecutive 12-month period as a provisional appointee. [NRS 284.310; NAC 284.406]
11. **700-Hour Rehabilitation Clients.** Persons certified as "700-Hour" clients by a counselor in the Rehabilitation Division and who meet the minimum qualifications for a position will be shown in a separate section at the top of the certified list. They are eligible for temporary appointments not to exceed 700 hours. The temporary appointment substitutes for the examination for these candidates. At, or before, the conclusion of the 700 hours, they may be appointed to the position on an ongoing basis. In this case, the time spent in the temporary appointment is credited toward the probationary period. [NRS 284.327; NAC 284.416]

H. CHECKLIST FOR NEW HIRES

To assist agency personnel in completing the forms required for a new hire, it is advisable to maintain a checklist. This helps ensure that all forms are available and completed as needed. Following is a sample checklist outlining the forms commonly needed. Additionally, you should ensure that any agency-specific forms are included on your agency's checklist. A copy of this checklist, signed by the employee, along with copies of each form, should be included in the employee's department service jacket. The State department's that issue and require submission of these forms update them and add new ones periodically. Your checklist should be updated to reflect those changes.

SAMPLE

NEW HIRE CHECKLIST

DEPARTMENT OF PERSONNEL FORMS:

- ☐ ESMT-A - State of Nevada - Employment Status Maintenance Transaction
- ☐ ESMT-B - State of Nevada - Employment Personal Information
- ☐ W-4 Form - Employee's Withholding Allowance Certificate
- ☐ NPD-4 - Request to Accelerate Salary
- ☐ I-9 Form - Employment Eligibility Verification
- ☐ TS-58 - Alcohol/Drug Free Workplace - Policy Statement/Acknowledgment
- ☐ TS-25 - Election of Compensatory Time Form
(For use only between agency and individual employee not represented by SNEA)
- ☐ TS-78 - Variable Work Week Form
- ☐ Voluntary Employee Deductions
- ☐ Employee Handbook
- ☐ Sexual Harassment Policy Verification Form

RETIREMENT FORM:

- ☐ P.E.R.S. - Retirement Membership Registration Form

DEPARTMENT OF INDUSTRIAL RELATIONS FORM:

- ☐ Workplace Safety Form

RISK MANAGEMENT - BENEFITS COMMITTEE FORM:

- ☐ Request for Employee Benefits Orientation Form
- ☐ State of Nevada Worker's Compensation Managed Care Employee Acknowledgment

I. EMPLOYEE ORIENTATION

The first few days on a job have a major effect on an employee's ultimate success or failure in that job. Reasonable goals for orientation are:

- To promote new employee's identification with Nevada State Government;
- To encourage a high level of motivation by integrating the interests and goals of the agency with those of the individual;
- To facilitate the development of mutually satisfying working relationships between current and new employees; and
- To acquaint new employees with their job.

The Department of Personnel's training course entitled "Orientation To State Employment" provides general information applicable to all State employees regarding the personnel system. However, individual supervisors have the larger and more immediate role of making new employees welcome in their work units, explaining the job in detail, pointing out the location of facilities, and introducing co-workers.

Following are suggested orientation components for the immediate supervisor on an employee's first day:

- Have the employee complete insurance enrollment forms, a W-4 form and any other payroll forms and forward them to the Payroll Department. If an employee requires more detailed information on the insurance options, the Benefits Section of Risk Management can help;
- Introduce employee other employees;
- Take the employee on a tour of the work area and preferably of the entire agency;
- Discuss work hours, lunch times, breaks, flexible scheduling, safety procedures, parking, etc.;
- Provide an overview of the employee's job and what is expected including a copy of the current class specification and work performance standards for review;

- Provide the employee with a copy of the Employee's Handbook, Training Calendar and a list of State agencies and their functions;
- Review payroll procedures (e.g., filling out time sheets, when pay days fall, etc.);
- Inform the employee of any probationary status;
- Make clear that the immediate supervisor is always available to answer questions and help the employee as needed; and
- Start the new employee on the simpler tasks of the job under supervision as needed. Try not to flood the new employee with too much information immediately, as orientation is a cumulative process over time. Providing additional information in writing is usually helpful.

Don't leave orientation to chance! By designing and implementing a well-organized orientation program, the new employee and your agency both benefit.

IX. PROBATION PERIODS

A. NEW HIRES

All original competitive appointments of employees in the State's classified service require a fixed probationary period. Classes assigned to grades 23 and above require a 1-year (full-time equivalent) probationary period, whereas classes assigned to grade 22 and below require a 6-month (full-time equivalent) probationary period. Upon successfully passing a probationary period, employees attain permanent status.

It is a manager's responsibility to provide for the development of new employees. Employees should receive training and counseling relevant to their performance as appropriate. Reports of performance are required at the end of the 2nd and 5th months of employment if an employee is serving a probationary period of 6 months, and at the end of the 3rd, 7th and 11th months if the probationary period is for 12 months (see Chapter XIII, Employee Development).

An appointing authority may dismiss or demote an employee during the initial probationary period for any lawful reason. Although probationary employees are essentially "at will" employees and, as such, do not have due process protection, be aware that such dismissals or demotions can be challenged under anti-discrimination laws. [NRS 284.290, NAC 284.442, 284.444-284.458]

B. PERMANENT EMPLOYEES

Permanent employees who are promoted to a vacant position are required to serve the appropriate 6-month or 1-year probationary period, referred to as a "trial period". An employee who fails to satisfactorily complete a trial period and attain permanent status in the new position must be restored to the position from which promoted.

As with initial probationary periods, reports of performance are required at the end of the 2nd and 5th months if the employee is serving a 6-month trial period, and at the end of the 3rd, 7th and 11th months if the employee is serving a 1-year trial period (see also Chapter XIII, Employee Development). [NRS 284.300; NAC 284.442, 284.443, 284.462]

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X. EMPLOYEE DEVELOPMENT

A. PERFORMANCE MANAGEMENT

Performance management is a central management task, key to accomplishing department/agency goals. Performance management should be viewed as a continuous cycle rather than an annual event. The Managers' role in this process includes:

- Establishing and communicating work unit goals;
- Establishing job requirements and objectives for each employee linked to work unit goals;
- Setting performance standards defined in appropriate terms such as quality, productivity, or customer service levels;
- Providing employees with periodic assessments and feedback on their performance;
- Appropriately recognizing and rewarding performance; and
- Initiating individualized employee development and corrective action if needed to encourage successful performance and resolve performance problems.

Two major components of the performance management process - work performance standards and performance appraisal - are reviewed in this section.

1. **Work Performance Standards.** Work performance standards document the principal assignments, responsibilities, and results expected when an employee's job is satisfactorily performed under existing working conditions. They serve as the basis for evaluating individual employee performance. They are required for all classified positions, must be reviewed annually, and a copy must be provided to each employee. [NRS 284.335; NAC 284.468]

Principal assignments and performance standards should be linked to the goals of the work unit, and may change from year to year. The establishment and periodic updating of work performance standards is a cooperative process involving both the supervisor and subordinate. Setting work performance standards involves:

- Analyzing the job in the context of the work unit as a whole;
- Listing and describing the principal assignments of the job;
- Determining the relative importance of each principal assignment; and

- Writing a brief statement as to what constitutes satisfactory performance for each principal assignment.

When writing work performance standards, keep in mind that principal assignments are the primary duties assigned to a position (typically fewer than 10). Standards for each principal assignment should use an appropriate means of measurement. Depending on the assignment, these may be stated in terms of quantity, quality, manner of performance, results desired, and/or time.

2. **Performance Appraisal.** The objectives of performance appraisal are varied and include:

- Clarification of job requirements and expectations;
- Performance feedback;
- Improved internal communications;
- Employee development;
- Career planning;
- Facilitation of human resource decisions such as promotions;
- Establishing a basis for merit increase; and
- Providing the legal or regulatory basis for certain personnel actions.

An accurate evaluation of an employee's performance requires supervisors to observe and document performance data throughout the year. The documentation should objectively record both positive and negative facts as they occur. The supervisor's documented observations should form the basis of ongoing feedback to employees regarding their performance throughout the year. Managers are responsible for ensuring that such feedback occurs regularly and that supervisors are trained to counsel employees towards improved performance.

Completion of the Employee Appraisal and Development Form (NPD-15) should supplement this regular and ongoing performance feedback. Prior to preparing an NPD-15 for an employee, supervisors are required to complete formal training on the preparation of performance reports (NRS 284.338; see also section B.1 below).

An employee's performance should be evaluated in relation to the established work performance standards for the position. The NPD-15 provides for the rating of performance on principal assignments, related factors (e.g., cooperativeness and judgment), and supervisory performance, if relevant.

The appraisal and development form also provides a section to be used as a development plan for the employee. Completion of this plan provides an opportunity for the supervisor and employee to discuss goals for the upcoming year, the employee's career plans, and training opportunities to provide for employee growth and development.

Ratings of the employee's performance on each principal assignment are made using a five-point scale ranging from (1) "Unacceptable" to (5) "Outstanding". Ratings of outstanding, needs improvement, or unacceptable must be supported by written comments.

A summary rating of all principal assignments may be calculated either as a simple average or weighted by relative importance. The method of calculation should be communicated to the employee prior to the start of the appraisal period. The "Overall Evaluation Rating" is calculated using the summary ratings for principal assignments, related factors, and supervisory performance, as applicable.

An overall evaluation rating of unacceptable or needs improvement requires that a follow-up appraisal be filed at least every 90 days until standard performance is achieved or disciplinary action is taken. An employee receiving a substandard performance rating must receive written notice that such a rating affects merit salary increases and eligibility for longevity pay. [NRS 284.340; NAC 284.470]

Supervisors must complete performance appraisals for both probationary and permanent employees. For employees serving a six-month probationary period, an appraisal is due the second and fifth months of employment. For those serving a twelve-month probationary period an appraisal is due the third, seventh, and eleventh months of employment. Once an employee has achieved permanent status, appraisals are due annually on the employee's pay progression date. [NRS 284.337 and 284.340]

Each employee must be provided a copy of the performance appraisal and development report. An employee who disagrees with a performance appraisal may identify the points of disagreement and request a review. The reviewing officer (usually the evaluator's supervisor) must respond within 10 working days after receiving the request. Contested performance appraisals may also be appealed through the grievance procedure. [NAC 284.470; NAC 284.474; NAC 284.478]

Merit salary increases must be supported by a rating of standard or above. If a required performance evaluation is not filed within 30 days after the due date, the employee's performance is considered standard. [NRS 284.340; NAC 284.174 and NAC 284.194]

B. TRAINING

1. **Required Training for Supervisory and Managerial Employees.** Because the training requirements for supervisors and managers are located in NRS 284 and NAC 284, they generally apply only to classified employees. However, the requirement for training in

Performance Evaluations (NRS 284.338) also applies to unclassified supervisors and managers when they are supervising classified employees.

- a. **Training Requirements for Supervisory Employees.** An employee appointed to a supervisory position is required to complete a minimum of five days of supervisory training within six months of the appointment. The Department of Personnel's course on employee appraisal (MGT 290) or an approved substitute must be taken as part of the five day minimum. Training on the topics of sexual harassment, a drug and alcohol-free workplace and equal employment opportunity is required in addition to the five-day requirement.

All courses designated as "MGT" in the Department of Personnel's training calendar count towards the training requirement. Training may also be received from the employee's agency or through other formal training programs (e.g. college courses; seminars). An appointing authority also has the option of accepting training completed during the two years preceding the appointment. Each agency is responsible for ensuring its supervisors fulfill the training requirements. [NRS 284.338; NAC 284.498]

- b. **Training Requirements for Managerial Employees.** An employee appointed to a managerial position is required to complete a minimum of five days of managerial training within one year of the appointment to the managerial position. This is in addition to the five days of supervisory training the employee may have previously taken. As with supervisory appointments, training on the topics of employee appraisal, drug-free workplace, and equal employment opportunity is required in addition to the five days of managerial training, unless the manager has previously attended these courses. Other guidelines for acceptance of courses are the same as indicated for Supervisors, in section B.1 above. [NAC 284.502]

2. **Optional Training.** The Department of Personnel's Training Section provides a variety of courses that are applicable across agencies and occupational groups. The Training Section publishes a quarterly Training Calendar, and lists of its offering are also included in the quarterly newsletter *Personnel Matters*. With few exceptions, agencies are not charged for enrollments in these courses.

XI. EMPLOYEE BENEFITS

Most benefits described in this chapter apply to both classified and unclassified employees.

A. DEFERRED COMPENSATION

The State of Nevada offers a tax-sheltered deferred compensation plan through which many State employees are saving for retirement using before-tax payroll deductions. An employee may join the plan for as little as \$12.50 per pay period. The maximum amount that can be sheltered per calendar year is the lesser of 25% of gross income or \$8,000.00. There are only four conditions under which funds may be withdrawn from a participant's deferred compensation account: 1) retirement, 2) termination of employment with the State, 3) emergency unforeseen financial hardship, and 4) death.

Employees may split their contributions between different funds in multiples of 10%. The plans provide Customer Information and Transaction services that allow participants to electronically access account balances and share prices, move balances from one fund to another, and change the allocation of ongoing contributions. The programs provide many investment options, including fixed interest accounts, socially responsible funds, aggressive growth funds, and several international funds.

The State's plan administrators, ITT Hartford and ICMA Retirement Corporation, can provide detailed current and historical performance information on the investment options, as well as answer general questions about participation in the deferred compensation program. ITT Hartford can be reached in Reno at (775) 826-1227 and in Las Vegas at (702) 796-9100. ICMA Retirement Corporation can be contacted by calling (800) 669-7400.

The State's deferred compensation program is administered by a committee comprised of five Plan participants appointed by the Governor, including four current employees and one retiree. Among other duties, the committee contracts with and reviews the performance of the plan administrator(s).

B. EMPLOYEE LEAVE

1. **Annual Leave.** NRS provides for the accrual of one and one-quarter working days in annual leave for each month of continuous public service. It further provides that the Department of Personnel may by regulation provide for additional annual leave for long-term employees, and for prorated annual leave for part-time employees.

The Personnel Commission has adopted such regulations, as follows: employees with 10 - 15 years of full-time State service are entitled to accrue annual leave at the rate of one and one-half days for each calendar month of service. Employees with 15 or more years of total full-time state service accrue annual leave at the rate of one and three-quarters days for each calendar month of service.

Part-time employees receive prorated annual leave based on the full-time employees' rate of accrual for each month of equivalent full-time service.

The following restrictions and rights affect employees' ability to use and accrue annual leave:

- Although accrued, no annual leave may be taken by employees during their first 6 months of employment;
- Annual leave accruals in excess of 30 working days must be used by the end of the calendar year or be forfeited;
- Payment of annual leave in excess of 30 working days may be made if an employee, on or before October 15, requests permission to take annual leave during that calendar year and the request is denied. (An employee who has final authority to approve use of his/her own accrued leave is prohibited from receiving payment under this circumstance in any two consecutive years. [NRS 284.350(2b)]);
- An employee's request for annual leave submitted 60 days in advance of the leave date must be honored except for good and sufficient reason. The appointing authority must respond in writing within 15 workdays after receipt of the request;
- If an employee has completed 6 months of employment, accrued annual leave must be granted for an absence which qualifies for Family and Medical Leave; and
- Except as noted above, the appointing authority is responsible for determining when annual leave will be taken after considering the needs of the service and the seniority and wishes of the employees.

NRS 284.350; NAC 284.538 through 284.5415

2. **Sick Leave.** Employees in the classified and unclassified service accrue sick leave at the rate of one and one-quarter working days for each month of full-time service. Sick leave may be accumulated from year to year to a maximum of 90 days, after which only one-half of the unused sick leave from the past year may be carried forward. The balance of the unused sick leave accrued but not carried forward is placed in a special sick leave account and may only be used under the conditions specified in NAC 284.546.

Authorized reasons for the use of sick leave are set down in NAC 284.554, as follows:

- Inability to perform one's duties due to sickness, injury, or other physical incapacity due to a medical condition;
- Being quarantined;

- Receiving required medical, psychological, optometric, or dental services or examination;
- Receiving EAP counseling for a condition that would otherwise qualify under this section; or
- Illness, death, or other authorized medical need in the employee's immediate family (as defined in NAC 284.5235).

Appointing authorities should approve the use of sick leave only after determining that the absence was for one of these authorized reasons. The appointing authority may require substantiating evidence for absences in excess of 3 working days or in any case of suspected abuse.

Other conditions relating to the use or payment of sick leave are as follows:

- Employees who have requested leave for a qualifying condition under the Family and Medical Leave Act must be approved to use sick leave for that condition only to the extent that it is for an authorized reason and they have sufficient accrued sick leave. Limits on the use of family sick leave apply; and
- An employee with 10 or more years of service who retires or terminates his employment through no fault of his own is entitled to payment for unused sick leave in excess of 30 days. The amount of the payment is based on years of service, ranging from a maximum of \$2,500 at 10 years of service to a maximum of \$8,000 at 25 years of service. Qualified employees may elect to receive this payment in a lump sum, use it for advanced payment of insurance premiums, or apply it to the purchase of service credit if they are otherwise eligible.

[NRS 284.355; NAC 284.5415 through 284.570]

3. **Compensatory Time Off.** Under the Fair Labor Standards Act, work time in excess of 40 hours per week must be compensated by pay at time and one half, unless there has been an agreement reached prior to the performance of the work. (See also section on Overtime Pay/Compensatory Time in Chapter IX). Such an agreement would allow for compensatory time off in lieu of payment. If acceptable to the agency, the agreement may give the employee the option of choosing between pay and compensatory time with each occurrence of overtime.

An agreement providing for compensatory time in lieu of payment for overtime worked in excess of 40 hours in a week must be between the appointing authority and the employee's representative if the representative meets conditions set forth in the Fair Labor Standards Act. The State of Nevada Employees' Association (SNEA) is the only representative recognized by the State to enter into agreements for this purpose. All other agreements for this purpose must be between the appointing authority and the employee.

In cases such as holiday premium pay, standby pay, or overtime in excess of 8 hours per day (provided it does not exceed 40 hours of work time per week), the employer has the option of granting either pay or compensatory time off. There is no legal requirement that compensation be in the form of pay in these cases. If you wish to exclude such time from a written agreement giving an employee the right to choose the form of compensation, the agreement should specify that it only pertains to overtime worked in excess of 40 hours in a workweek.

[U.S. 29 CFR 553.23 and 553.28; NAC 284.250]

4. **Administrative Leave.** This section lists situations under which managers either must or may grant administrative leave with pay. In each case, these situations must occur during an employee's work hours to qualify for administrative leave. Administrative leave should not be granted for activities occurring outside of normal working hours which would have qualified for administrative leave if they had been scheduled during work hours.

Appointing authorities shall grant administrative leave with pay for the following activities listed in NAC 284.589:

- An initial and one follow-up appointment for counseling through the EAP;
- Attendance at a wellness fair which has been authorized by the Risk Management Division of the Department of Administration;
- Participation in an official capacity as a member of a statutorily created committee or board on which the employee serves as a representative of state employees. Such leave must be in lieu of other fees provided for participation in official functions of the board or committee; or
- Time spent as a grievant or witness before the Employee Management Committee.

Additionally, upon request, an employee who has received a notice proposing suspension, demotion or dismissal is entitled to receive up to a total of 8 hours of administrative leave to prepare for hearings regarding the proposed action (NAC 284.656, section 1.f. See also this Handbook's chapter on Disciplinary Actions, section B).

NAC 284.589 also provides that appointing authorities may grant administrative leave with pay for the following reasons:

- a. To relieve an employee of duties during:
- A criminal investigation (of the employee);
 - The active investigation of an alleged wrongdoing [as provided in NAC 284.656]; or

- While awaiting the results of a screening test for alcohol or drug use authorized under NRS 284.4065;
- b. For up to 2 hours to donate blood;
- c. During closure of the worksite due to a natural disaster, and
- d. For "participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a State employee." This provision may be used for attendance at group insurance meetings, or work-related training which was requested by the employee and approved but not required by the manager.

Employees who represent an employee association or union in an official capacity may also be granted administrative leave for certain activities under this provision. The Department of Personnel has issued guidelines (Memo Perd #20/94) to assist State agencies in responding to such requests. These guidelines were developed in conjunction with employees and agency personnel officers to promote fairness and consistency between agencies, as well as to preserve appropriate flexibility for agency managers. An agency should evaluate each request individually, considering the guidelines and its own staffing requirements. The guidelines specify that:

- Administrative leave for employee association/union activities should be limited to employees serving in an official capacity (e.g., board members, directors, officers and delegates);
- Employee association/union activities for which administrative leave may be granted include conferences and general council meetings focusing on State of Nevada employee issues, and meetings with State officials to discuss employee issues.

Note: NAC 284.662(2) requires an employee who is representing or assisting another employee with a grievance to do so only on his/her own time. Administrative leave therefore may not be granted for this purpose.

- 32 hours of administrative leave per calendar year is the recommended maximum per person for employee association/union-related activities. Few eligible employees should need this full amount. Recommendations for appropriate amounts of leave for specific types of activities can be found in Memo Perd #20-94.

[Memo Perd #20/94; NAC 284.589; NAC 284.656(1)(f)]

5. **Civil Leave.** Employees must be granted civil leave with pay under certain conditions specified in the NRS and the NAC. These conditions include the time spent during working hours:

- Serving on a jury or as a witness in court or at an administrative hearing with certain exceptions [NAC 284.582];
- Voting as provided in NRS 293.463;
- As a volunteer fire fighter of an organized and recognized fire department in the protection of life or property;
- As a volunteer emergency medical technician certified pursuant to NRS 450B.180; or
- As a volunteer reserve member of a police department or sheriff's office.
- For any employee designated by the American Red Cross as a disaster technician, upon the request of the American National Red Cross and the approval of the employer, to assist the American National Red Cross during a disaster as described in NRS 414.020 occurring in the states of Nevada, California, Oregon, Idaho, Utah, or Arizona, for a period of not more than 15 working days in any calendar year. [NRS 281.147]

An appointing authority may also approve civil leave for an employee whose absence is necessary to respond to a public emergency.

[NRS 293.463 and 284.357; NAC 284.582, 284.586 and 284.587]

6. **Catastrophic Leave.** A catastrophic leave account may be established when an employee or a member of the immediate family experiences a catastrophe and the employee has used all accrued leave. "Catastrophe" means either:

- The employee is unable to perform the duties of the position due to a serious illness or accident which is life-threatening or requires a lengthy convalescence;
- A member of the employee's immediate family has a serious injury or accident which is life-threatening or requires a lengthy convalescence; or
- There is a death in the employee's immediate family (added to NRS 284 in 1995 by SB 544).

For purposes of this program, a "life-threatening" condition is one diagnosed by a physician as creating substantial risk of death. "Lengthy convalescence" is defined as a period of disability which an attending physician expects to exceed 10 weeks. "Immediate family" is defined the same as it is for sick leave usage when there is a death in the employee's immediate family. [NAC 284.562]

Employees may donate annual or sick leave for use by other State employees through the catastrophic leave program. An employee may not donate sick leave hours under this program if the balance in their account after the transfer would be less than 240 hours.

Leave must be donated in 8-hour increments, not to exceed 120 hours per calendar year. Employees may donate to a catastrophic leave account in two ways:

- a. For use only by a specifically designated employee in any State agency who has been approved to use catastrophic leave. Unused leave is to be returned to the account of the donor; or
- b. To the general catastrophic leave bank managed by the appointing authority in the employee's agency. Leave donated to an agency bank cannot be returned.

Appointing authorities have sole responsibility for implementing the catastrophic leave program in their agency and approving or denying requests for catastrophic leave by their employees. Catastrophic leave may be approved only when the employee has exhausted all sick leave, annual leave and compensatory time.

[NRS 284.362 - 284.3626; NAC 284.575 - 284.576]

7. **Leave of Absence Without Pay.** An appointing authority may approve a request by an employee in the classified service for a leave of absence without pay (LWOP) for up to one year for any satisfactory reason. Appointing authorities may approve leaves of absence without pay for persons in the unclassified service, except academic employees in the University and Community College System, for a period not to exceed six months. Except as noted below, benefits will be affected to varying degrees depending on the length of the absence.

A classified employee may be approved for a **voluntary** leave of absence without pay (VWOP) during a state of fiscal emergency declared by the governor. For benefits purposes, hours taken as VWOP are treated as hours worked, so that benefits coverage remains intact during the leave. Employees on VWOP accrue annual and sick leave, receive holiday pay, and are eligible for longevity payments.

An appointing authority must grant a request for a LWOP under the following conditions:

- To permit acceptance by a classified employee of a position in the legislative branch during a regular or special session of the legislature. Benefits accrued while performing such service are retained and become the responsibility of the appointing authority if the employee returns to the classified service;
- To honor a request for authorized Family and Medical Leave.

For additional information on the effects of LWOP on benefit entitlement, refer to NRS 284.360; NAC 284.578 and 284.580; and the Summary of the Family and Medical Leave Act, issued by the Department of Personnel.

8. **Military Leave.** State statute provides military leave with pay for up to 15 working days per year when a State employee who is a member of the United States Army, Navy, Air

Force, Marine Corps, Coast Guard Reserves or the Nevada National Guard is ordered to active duty.

A military leave of absence without pay must be granted to a permanent or probationary employee for the duration of the military service plus a period of 90 days when the employee performs active military service under the provisions of any national military service or training act or voluntarily serves in the Armed Services of the United States in time of war.

[NRS 284.365 and 281.145; NAC 284.385]

9. **Holidays.** State employees who work a full-time schedule (40 hours per week) are eligible for 11 paid holidays each year. Receiving holiday pay is contingent on being in paid status during some portion of the scheduled shift immediately preceding the holiday.

Part-time employees are eligible for holiday pay when the holiday falls on their scheduled work day and they are in paid status on the scheduled shift immediately preceding the holiday.

Holiday pay for employees working in excess of a 40-hour week, employees whose regular day off falls on the holiday, and employees who work on a holiday are addressed in the administrative regulations.

[NRS 236.015; NAC 284.526 - 284.534]

C. **GROUP INSURANCE PROGRAM**

The State's Group Insurance Program provides the following coverage: health, dental, and vision care; life insurance; accidental death and dismemberment; and long term disability. New employees become eligible for coverage on the first day of the month following completion of 90 days of service, but are required to enroll within 60 days of their start date. Health insurance may be selected from the State's self-funded plan or a health maintenance organization. Dependent coverage is available.

At the time of enrollment in the group insurance program, employees may elect to participate in a premium-only plan or a dependent-care reimbursement plan. These programs can provide savings by allowing for the payment of insurance premiums and dependent care expenses on a pre-tax basis.

D. **LONGEVITY PAY**

State employees with eight or more years of continuous service are eligible for longevity payments. Employees whose performance is rated standard or better (or assumed to be standard in the absence of required performance reports) receive \$75.00 semiannually with an additional \$25 semiannually for each additional year of service up to a maximum of 30 years of continuous State service. "Continuous service" is defined as service which is not broken by a separation except for those separations listed in NAC 284.598.

The following table shows the amounts of longevity pay for which employees are eligible at selected five-year intervals:

| YEARS OF SERVICE | SEMIANNUALLY | ANNUALLY |
|---------------------------|--------------|-----------|
| 10 years but less than 11 | \$125.00 | \$250.00 |
| 15 years but less than 16 | \$250.00 | \$500.00 |
| 20 years but less than 21 | \$375.00 | \$750.00 |
| 25 years but less than 26 | \$500.00 | \$1000.00 |
| 30 years or more | \$625.00 | \$1250.00 |

Except as provided in NAC 284.282, longevity pay will be reduced for employees who have used more than 240 hours of unpaid leave in a calendar year.

[NRS 284.177 and 284.179; NAC 284.262 through 284.284]

E. **RETIREMENT PROGRAM**

An employee who fills a position designated as half-time or more must participate in the Public Employees' Retirement System (PERS). PERS participants must choose between the Employee/Employer-Paid Retirement (E/EPR) and the Employer-Paid Retirement (EPR) Plans.

As of July 1999, regular members of PERS participating in the E/EPR Plan contribute 9.75% of their E/EPR salary by way of taxable payroll deduction. This amount is matched by the employer for a total contribution of 19.50%. Regular members of PERS participating in the EPR Plan contribute 9.375% of their EPR salary by way of a reduction in base salary. This amount is matched by the employer for a total contribution of 18.75%.

Members of the police/fire fund participating in the E/EPR Plan contribute 14.75% of their salary by way of taxable payroll deduction. This amount is matched by the employer for a total contribution of 28.5%. On the EPR Plan, police/fire members of PERS contribute 14.75% of their salary by way of a reduction in base salary. One percent of this amount is used for the spouse option under NRS 286.667. The employer makes a 13.5% PERS contribution for a total contribution of 28.5%.

An employee who participates in the EPR Plan benefits by:

- Retirement contributions being computed on a lower base salary;
- A lower PERS contribution rate (9.375% versus 9.75%); and
- Lower federal income tax liability due to lower base salary.

The following example illustrates the savings generated for an employee electing EPR as opposed to E/EPR. The employee is assumed to be single, claiming one dependent, and paid at grade 25, step 1.

| E/EPR RETIREMENT AND FEDERAL INCOME TAX - SINGLE EMPLOYEE | GRADE 25, STEP 1 |
|--|-----------------------------|
| Biweekly (BW) E/EPR Salary | \$913.37 |
| Retirement Contribution @ 9.75% | \$-89.05 |
| Federal Income Tax | \$-105.84 |
| Net Take-Home Pay | \$718.48 |

| EPR RETIREMENT AND FEDERAL INCOME TAX - SINGLE EMPLOYEE | GRADE 25, STEP 1 |
|--|-----------------------------|
| Biweekly EPR Salary | \$835.09 |
| Federal Income Tax on EPR BW Salary | \$-94.09 |
| Net Take-Home Pay | \$741.00 |

| DIFFERENCE BETWEEN EPR AND E/EPR NET TAKE- HOME PAY | GRADE 25, STEP 1 |
|--|-----------------------------|
| Net Take Home Pay on EPR | \$741.00 |
| Net Take Home Pay on E/EPR | \$718.48 |
| Additional Take Home Pay for Employee on EPR | \$ 22.52 |
| Number of Pay Periods in Calendar Year | X 26 |
| Additional Take-Home Pay in 1 Calendar Year | \$585.52 |

Most employees elect E/EPR only until they are vested in PERS, which occurs upon completion of five years of service. Employees who terminate prior to vesting forfeit their portion of the contribution if on EPR, but are eligible for a refund of their contribution if on E/EPR. In either case, employees who terminate prior to vesting forfeit the employer contribution. Due to the substantial savings in retirement contributions and taxes, there is little benefit to remaining on E/EPR beyond the five-year period required for vesting.

Vested employees with five years of service can retire at age 65 and receive 12.5% (2.5% per year) of their average monthly salary, based on their highest-paid 36 consecutive months of employment.

For additional information on retirement, contact PERS at (775) 687-4200.

[NRS 286]

F. UNEMPLOYMENT INSURANCE

Unemployment insurance provides temporary financial assistance to workers who are unemployed for reasons beyond their control. Rather than paying a payroll tax, the State of Nevada directly reimburses the Employment Security system for the amount of regular unemployment benefits and half of any extended unemployment benefits paid to its former employees. Benefit calculations are based on the claimant's earnings during a specified base period.

To prevent the payment of unemployment benefits to former employees whose claims are without merit, it is important for managers to maintain accurate documentation of the events leading to terminations. Be aware that former employees terminated during their probationary period as well as those with permanent status may apply for benefits.

When a former employee applies for benefits, the Employment Security office will mail a Notice of Claim Filing to the claimant's most recent employer. If the claimant had worked less than sixteen weeks for the last employer, a notice is also mailed to the next-to-last employer. An employer's response to the Employment Security office must be submitted within ten days from the date the Notice was mailed, and must contain any information that could affect the claimant's rights to unemployment benefits.

Claimants may be disqualified from receiving unemployment benefits for a number of reasons, including:

- Quitting voluntarily without good cause;
- Discharge for work-related misconduct (i.e., conduct other than that which an employer has the right to expect from an employee. Examples include habitual tardiness, insubordination, unauthorized absence from work);
- Discharge for crimes in connection with employment (e.g., assault, embezzlement, wanton destruction of property);
- Refusal to accept or apply for suitable work;
- Attendance at school; or
- Withholding or giving false information for the purpose causing benefits to be paid or increased.

In each instance where there is a question as to the claimant's eligibility, the Employment Security Division issues a written determination. Employers who have replied to the Notice

of Claim Filing in a timely manner and submitted information that could affect the claimant's rights to benefits receive a copy of this determination.

Both employers and claimants may appeal a determination. Employers may file an appeal in person at an Employment Security office or by sending a letter stating the reasons for the appeal to the Employment Security office that issued the determination. Appeals are heard by an impartial referee. The decision of the referee may be appealed to a three-person board of review. Decisions of this board may be appealed to district court.

(Information for Employers About the Nevada Unemployment Compensation Program published by the Employment Security Division of D.E.T.R.)

XII. EMPLOYEE ASSISTANCE PROGRAM

A. EAP SERVICES

For more than twenty years, the State of Nevada Employee Assistance Program (EAP) has provided professional counseling and consultation services to employees, supervisors, and agencies in dealing with personal problems as they affect the workplace. EAP services are confidential, free, and available to any State employee or family member living with the employee.

Research indicates that early problem identification leads to easier problem resolution. With this in mind, State employees have access to two EAP counseling sessions on paid administrative leave. Managers are encouraged to promote the use of this program.

Consultation with supervisors is an important EAP service. Supervisors often find it helpful to talk with an EAP counselor before taking formal disciplinary or corrective action. This is particularly true if there are indications that personal problems may be affecting an employee's work performance, or if the supervisor's personal reactions to the situation affect their objectivity or ability to supervise.

For more information or to schedule a consultation, contact the EAP Offices in Las Vegas at (702) 486-2929, in Carson City at (775) 687-3869, or (800) 398-3271 (rural areas).

B. SUGGESTIONS FOR MANAGERS

Although employees with financial, family or substance abuse problems present unique challenges for supervisors and managers, it is best to identify and document declining work performance initially, without making assumptions about the causes.

The following steps are suggested:

- | | |
|---|---|
| <ul style="list-style-type: none">• Recognition -• Observation - | <p>Warning signs that an employee has a problem include incomplete work, missed deadlines, problems in relations with co-workers, and increased absences or tardiness. A supervisor or manager needs to tell the employee when the job is not getting done.</p> <p>Supervisors should watch the employee's work habits and note their impact on overall performance.</p> |
|---|---|

- **Documentation -** A simple written log will enable the supervisor to recall all significant incidents of poor performance, and identify any trends or patterns in the employee's behavior. (Note: NAC 284.734 prohibits the maintenance of **secret** files regarding any employee. Employees should be made aware of incidents being documented.)
- **Feedback -** The supervisor should share with the employee the information that has been gathered, discuss the options for resolving the problem, and assure the employee that any personal information will remain **confidential**.
- **Resolution -** The supervisor and employee should jointly develop a plan outlining performance expectations and criteria for judging the employee's progress.

XIII. SEPARATIONS FROM SERVICE

A. VOLUNTARY SEPARATIONS

A classified employee who desires to resign may do so by notifying the appointing authority in writing of the effective date. The employee must attempt to submit the resignation at least two weeks in advance. When the new appointment is under the jurisdiction of another appointing authority in the State, the employee must provide written notice to the current appointing authority, and must not begin service in the new position for at least two weeks from the date of the notice unless there is mutual agreement among both appointing authorities and the employee.

The appointing authority shall report, and the employee shall acknowledge the resignation on the State of Nevada - Employment Status Maintenance Transaction, ESTM-A. The employee has the right to revoke the resignation within 3 working days following its acceptance by the appointing authority. [NRS 284.381; NAC 284.602]

B. INVOLUNTARY SEPARATIONS

1. **Disciplinary.** An appointing authority may dismiss a permanent classified employee for any of the reasons listed in NAC 284.650, causes for disciplinary action. NRS 284.383 requires that this be accomplished through the progressive discipline process except in cases of serious violations of law or regulations. When a disciplinary dismissal is proposed, it must be reviewed by the Attorney General's Office, the reason for the proposed action must be stated on the required notice, and an informal hearing before the appointing authority or his designated representative must be scheduled. See Chapter XIV for additional information on disciplinary dismissals. [NRS 284.383, 284.385; NAC 284.646, 284.650, 284.656]
2. **Layoffs.** NRS provides for layoffs an appointing authority deems necessary by reason of a shortage of work or money, the abolition of a position or other material changes in duties or organization. Administrative regulations set down procedures for effecting a layoff. The department administrator must determine the geographical location in which the layoff will occur and the class series, class and option to be affected. Employees who are not permanent must be laid off before any permanent employee is laid off. Permanent employees must be laid off on the basis of performance and seniority. In computing seniority, time covered by an overall performance rating of "unacceptable" or "below standard" made during the past four years does not count, except that no report issued within 75 calendar days before the layoff notice may be considered.

Permanent employees must be given at least 30 calendar days' written notice before the effective date of a layoff. The notice must specify the positions and locations where the employee has a right to displace another employee, if known at the time.

Names of employees who have received layoff notices will be placed on a statewide reemployment list for the class and option of the position being laid off. Such employees

may also request placement on reemployment lists for other classes for which they are qualified at or below the grade level of the layoff class. It is the affected employee's responsibility to demonstrate an interest in, and meet the qualifications for, such positions within 30 days after the layoff date. [NRS 284.380; NAC 284.612 through 284.630]

3. **Separations for Physical, Mental, or Emotional Disorder.** NAC 284.611 lists a number of steps an appointing authority must take before separating an employee due to a physical, mental, or emotional disorder which results in the employee's inability to perform the essential functions of the job. These include:

- Verify with the employee's physician that the condition does not respond to treatment, and/or that an extended absence from work will be required;
- Determine whether reasonable accommodation can be made to enable the employee to perform the essential functions of the job;
- Request the services of the Rehabilitation Division of the Department of Employment, Training, and Rehabilitation, or, if the employee is receiving worker's compensation benefits, any available rehabilitation program offered by the State's worker's compensation carrier. Services to be requested: evaluation of the employee's condition and suggestions for reasonable accommodation including possible job restructuring, or transfer to another vacant position for which the employee would meet the minimum qualifications; and
- Ensure that all reasonable efforts have been made to retain the employee.

Separation in such a case is only justified when the information obtained through these procedures supports the decision to separate and the employee:

- Is not on sick leave, annual leave, or other approved leave; and
- Is ineligible for, or has refused, disability retirement.

Note: An employee receiving worker's compensation benefits who declines to exhaust sick leave must be placed on leave of absence without pay, per NRS 281.390, subsection 5. This is a form of approved leave, and the employee therefore cannot be separated while in this status. Please also note that when an employee on worker's compensation leave is concurrently eligible for FMLA leave, the employee is permitted to use annual leave before exhausting sick leave.

Permanent employees separated under this section have the same rights and privileges as permanent employees who are dismissed for disciplinary reasons. Procedures for notice and hearing as found in NAC 284.656 must be followed, and the separation may be appealed to the Department of Personnel's hearing officer. (See Chapter XIV.B of this Handbook.) However, the proposed dismissal is documented on an NPD-42 (Recommendation of

Separation Pursuant to NAC 284.611) rather than on the Specificity of Charges used for disciplinary dismissals. [NAC 284.611 and 284.656]

C. EXIT INTERVIEWS

Unnecessary employee turnover is costly and disruptive to your agency's ability to deliver services. Exit interviews are a valuable means of obtaining candid information from terminating employees regarding their experience in your agency. This information can lead to improved selection, training, and employee relations practices, and ultimately, higher retention rates.

Exit interviews can be an effective public relations tool if they convey a genuine concern about the employee's well-being and an openness to understanding both the positives and negatives of that person's experience in the agency. There are times when an interviewer, without being unnecessarily defensive, is able to correct a departing employee's misconceptions about the agency. An employee who leaves with a grudge is a potential liability to the agency's image.

Exit interviews also produce more accurate "separation code" entries on ESMT-A's. This information, in turn, is used for the Department of Personnel's statistical reports analyzing turnover rates and trends statewide, by department, and by class.

The Technical Services Division of the Personnel Department has prepared a model exit interview procedure which is available to agencies upon request.

D. POST-EXIT INTERVIEW CHECKLIST

In addition to standard exit interview content, general topics to be addressed with departing employees are listed below. Individual agencies may need to add items specific to their operations.

- Advise the employee of any final payments owed (e.g., salary, annual leave, etc.)
- Ensure that a Benefits Change form has been completed notifying Risk Management of the employee's separation from State service. Risk Management will contact the separated employee regarding benefits continuation rights under Consolidated Omnibus Budget Reconciliation Act (COBRA). Other benefit conversion rights are described in the "Benefit Directions" handbook provided to individual employees by Risk Management.
- Ensure that the appropriate Public Employees Retirement System (PERS) forms have been completed: a "Notice of Removal from Retirement Report" for all separating employees, and a "Contribution Distribution/Refund Request" form for those who are withdrawing contributions.
- Account for all State property in the employee's possession, including equipment, keys, employee I.D., and state-issued credit cards.

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XIV. DISCIPLINARY ACTIONS

Please note that the requirements for progressive discipline, described in Section A, and the specific notification and hearing rights, described in Section B, apply only to classified employees who have attained permanent status. Section C, Causes for Disciplinary Action, also applies to classified employees; however, while unclassified employees are not specifically covered by most provisions in this section, it may provide a useful model of expectations for them as well.

Thorough and objective documentation of events surrounding disciplinary actions is critical to a supervisor's ability to defend such actions if challenged. However, please be aware of the prohibition in NAC 284.734 against the maintenance of secret files regarding any employee.

A. PROGRESSIVE DISCIPLINE

Appropriateness of disciplinary action is determined by the severity of the offense and any past disciplinary or corrective action for related offenses by the employee. Discipline must be progressive, i.e., except in cases of serious violations of law or regulations, less severe measures are applied first, after which more severe measures are applied only if the previous measures have failed to correct the deficiency(ies). [NRS 284.383] Available disciplinary procedures in progressive order, as provided in NAC 284.638 through 284.646, include: oral warning, written reprimand, suspension without pay, demotion and/or dismissal.

For a document to be considered a written reprimand, it must be on the Department of Personnel form provided for that purpose (NPD-52), and it must be submitted for inclusion in the employee's service jacket. Although "letters of instruction" or other written correspondence to an employee can be useful performance management tools, there is no authority to include them in the service jacket as evidence of the progressive discipline process. If it becomes necessary to issue a written reprimand or to take more serious action, any related prior correspondence can be referenced in and attached to the formal notice.

Appointing authorities must consult with the Attorney General's Office prior to imposing any suspension without pay, demotion, or termination (SAM 1702.0). This consultation is intended to help agencies avoid procedurally defective disciplinary actions that could be overturned later.

When the proposed disciplinary action is suspension without pay, demotion, or dismissal, a notice (NPD 41 - Specificity of Charges) and an informal hearing are required prior to the imposition of the discipline. This process is further described in the next section. If the disciplinary action is an oral warning, written reprimand (or placement on administrative leave with pay pending an investigation, as described below), the requirement for notice and informal hearing do not apply.

An exception to the requirement for a notice and informal hearing occurs if there is reasonable cause to believe that retention of an employee on active duty poses a threat to life,

limb, or property, or may be seriously detrimental to the interests of the State. In this case, the appointing authority has the following options:

- Temporary reassignment to duties in which such threat or serious detriment does not exist;
- Placement on administrative leave with pay until the notice and hearing requirements have been met; or
- Immediate suspension or dismissal, with the standard procedure for notification and informal hearing followed as soon as practicable after such action. In this case, the appointing authority or a designated representative must still attempt to inform the employee before the suspension or dismissal of the charges, and provide the employee with an opportunity to rebut the charges.

[NRS 284.383, 284.385, 284.390; NAC 284.638 through 284.656]

B. NOTIFICATION AND HEARING RIGHTS

1. **Predisciplinary Notice and Hearing.** Before an appointing authority takes action to suspend, demote or dismiss a permanent classified employee, the employee must be given at least 10 working days' notice of the proposed action. The notice (NPD-41) is to state the specific violation of NAC 284.650, the proposed action and effective date. Additionally, it must inform the employee of the predisciplinary hearing scheduled on his/her behalf; the date, time, and place of the hearing; and who will conduct the hearing. The hearing must be scheduled no earlier than seven working days after the employee is deemed to have received the notice.

The predisciplinary hearing is an informal proceeding between the two parties, the appointing authority or his designated representative and the employee. Witnesses are not permitted, but each party may be accompanied by a person of his/her own choice. An employee may waive the right to a hearing by submitting a written statement to the appointing authority or the designated representative.

Employees are entitled to examine, at any time after receiving an NPD-41, all materials to be used by the person conducting the hearing. Employees are also entitled, upon request, to receive up to eight hours of administrative leave with pay to prepare for hearings regarding a suspension, demotion, or dismissal.

The employee must be given a copy of the written finding or recommendation, if any, resulting from the hearing, and must be informed in writing of the appointing authority's decision regarding the proposed action, on or before the effective date of such action.

2. **Formal Disciplinary Hearing.** A disciplinary action resulting in an employee's suspension, demotion or termination may be appealed to the Department of Personnel's hearing officer.

The request for this formal hearing must be filed in writing (or postmarked) within 10 working days following the effective date of the action. The decision of the hearing officer is binding on the parties.

[NRS 284.390; NAC 284.656]

C. CAUSES FOR DISCIPLINARY ACTION

Causes for which appropriate disciplinary action (as described in Section A of this chapter) may or must be taken are listed in NAC 284.650, 284.653, 284.738 - 284.771, and are summarized below:

- Engagement in any activity, employment, or enterprise which has been determined to be incompatible or in conflict with one's duties as an employee, or with the duties, functions, and responsibilities of one's agency or appointing authority. Appointing authorities may define and document such activities for employees under their jurisdiction;
- Incompetence or inefficiency;
- Insubordination or willful disobedience;
- Inexcusable neglect of duty;
- Disgraceful personal conduct which impairs one's job performance or brings discredit to one's agency;
- Discourteous treatment of the public or fellow employees while on duty;
- Fraud in securing a state appointment;
- Dishonesty;
- Abuse, damage to, or waste of public equipment, property or supplies due to inexcusable negligence or willful acts;
- Conviction of a criminal act involving moral turpitude;
- Unauthorized absence from duty or abuse of leave;
- Falsification of records;
- Misrepresentation of one's official capacity or authority;
- Violation of a safety rule adopted or enforced by the employee's appointing authority;

- Acceptance of favors, gifts, services, employment, etc., that would tend to influence a reasonable person to depart from impartial discharge of his/her public duties;
- Use of one's state position to secure or grant unwarranted privileges, exemptions, or advantages for oneself, or for any other person or business entity with which the employee or household member is associated;
- Entering into a private contract with the state in any capacity that can be construed as an extension of one's duties as a state employee;
- Use of information gained through one's public duties or relationships, which by law or practice is not at that time available to general public, to further one's own economic interests, or those of any other person or business entity;
- Suppression of any governmental document or report because it may unfavorably affect one's private financial interests;
- Failure to devote one's full time, attention, and efforts to state employment during one's hours of duty;
- Prohibited political activities -- see section on "Employee Political Activity" in Chapter III of this handbook, and section on the federal Hatch Act in Chapter IV;
- Sexual harassment, as described in Chapter III of this handbook;
- Suspension, revocation or cancellation of an employee's professional or occupational license or driver's license when possession of the license is required for the performance of an essential function of his/her position;
- Carrying a firearm on the premises of the workplace which is not required for the performance of current job duties or authorized pursuant to 202.3673;
- Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault, or battery;
- While on duty, being under the influence of alcohol, controlled substances (except as prescribed by a licensed physician), or other drugs which could interfere with the safe and efficient performance of an employee's duties. See section on "Alcohol and Drug-Free Workplace Policy" in Chapter III of this handbook. Please note that employees who test positive for alcohol or drugs for the first time normally must be referred to the Employee Assistance Program (EAP). (If conviction of driving under the influence while on state business was involved, however, this is not always required - see next paragraph.) An employee who refuses a referral to the EAP based on a positive alcohol

or drug test, or who does not successfully complete the rehabilitation program recommended by the EAP counselor, becomes subject to disciplinary action;

- Conviction of driving under the influence while on state business. NAC 284.653(1) lists available penalties for the first offense. Dismissal is required for the second offense in five years. An employee who is suspended or demoted for the first offense must agree to be evaluated through the EAP and must complete any rehabilitation program recommended in such evaluation. If the employee fails to complete the recommended rehabilitation program, the employee must be dismissed;
- Violation of any state or federal law prohibiting the sale of a controlled substance requires dismissal, per NAC 284.653(3); or
- Failure to report a conviction of any offense described in NAC 284.653 (see previous two paragraphs) within five working days after its occurrence.

Additionally, NAC 284.650 provides that disciplinary action may be taken for violation of any rule of the Personnel Commission (found in NAC 284). NRS 284.430 provides that violation of any provision of either NRS 284 or NAC 284 qualifies as a misdemeanor, and that a person convicted of a misdemeanor under this provision shall be ineligible for appointment to or employment in the public service for five years. If the person currently holds a state office or position, it must be forfeited.

Additionally, agencies are authorized to adopt, subject to approval by the Personnel Commission, prohibitions and penalties spelling out the types of disciplinary action to be imposed for various violations.

[NRS 284.430; NAC 284.650, 284.653, 284.738 - 284.771]

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XV. GRIEVANCE PROCEDURE

The State's grievance procedure provides for the adjustment of all classified employee grievances except those for which a hearing is provided in NRS 284.165, 284.376 or 284.390 (position classification; involuntary transfers; suspensions, demotions and dismissals).

A. GRIEVANCE DEFINED

"Grievance" is defined as an act, omission or occurrence which a permanent classified employee feels constitutes an injustice relating to any condition arising out of the relationship between the employer and the employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

B. GRIEVANCE PROCESS

An employee wishing to file a formal grievance must do so with the immediate supervisor within 20 working days after the origin of the grievance or from the date the employee learns of the problem. During this 20-day period every effort should be made to resolve the grievance through informal discussion among the parties involved.

A grievance may be filed at the next higher level if it is beyond the level of control exercised by the immediate supervisor. The grievance process as outlined in the NAC includes the following steps:

- First Step - Immediate Supervisor
- Second Step - Division Administrator
- Third Step - Department Director
- Fourth Step - Employee Management Committee

Employees have 10 working days to refer a grievance to the next level after receiving notification of the action taken at each step. A supervisor or manager also has 10 working days to respond to a grievance. If a response is not made to the employee within that time frame, the employee may file the grievance with the next level of review. These time limits may be extended by mutual agreement of the parties.

The Department of Personnel provides a grievance form, NPD-50, for the filing of a formal grievance. This form outlines the procedures to be followed at the various steps in the grievance procedure. A form for the agency's response to a grievance, NPD-51, is also available.

The Department of Personnel is available to provide consultation and assistance to all parties in the resolution of grievances.

[NRS 284.384; NAC 284.658 - 284.697]

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***CROSS REFERENCE INDEX
TO
NEVADA REVISED STATUTES AND
NEVADA ADMINISTRATIVE CODE***

Alcohol and Drug Testing

Policy (NRS 284.406)

Regulations (NAC 284.880 through 284.894)

Statutory Provisions (NRS 284.4061 through 284.407)

Appointments:

Demotion (NAC 284.402)

Emergency (NRS 284.315 and NAC 284.410)

New Hires (NRS 284.280 and NAC 284.384)

Promotion (NRS 284.295 and NAC 284.318)

Provisional (NRS 284.310 and NAC 284.406)

Reappointment (NAC 284.404)

Reemployment (NAC 284.385)

Reinstatement (NRS 284.330 and NAC 284.386)

Temporary (NRS 284.325 and NAC 284.414)

Transfer (NAC 284.390)

Attendance and Leave:

Administrative Leave (NAC 284.589)

Annual Leave (NRS 284.350 and NAC 284.538)

Catastrophic Leave NRS 284.362 through 284.3625 and NAC 284.575 through 284.576)

Civil Leave (NAC 284.582)

Family Death (NAC 284.562)

Holidays (NRS 236.015, NAC 284.526 and 284.534)

Leave of Absence Without Pay (NRS 284.360 and NAC 284.578)

Military Leave (NRS 281.145 and NRS 284.365)

Release Time for State Examinations (NAC 284.322)

Sick Leave (NRS 284.355, NAC 284.542 through 284.570)

Classification:

Allocation of Positions (NRS 284.165)

Appeal of Allocation (NRS 284.165 and NAC 284.152)

Classification Plan (NRS 284.160)

Reclassification or Creation of a New Class (NAC 284.126)

Compensation:

- Call-back Pay (NAC 284.214)
- Dangerous Duty (NAC 284.208)
- Longevity Pay (NRS 284.177 and NAC 284.262 through 284.284)
- Merit Salary Increases (NAC 284.174)
- Overtime Pay (NRS 284.180, NRS 281.100 and NAC 284.242 through NAC 284.250)
- Physical Hardship (NAC 284.208)
- Rate of Pay (NRS 284.175, NAC 284.170 and 284.204)
- Shift Differential (NAC 284.210)
- Special Adjustments to Salaries (NAC 284.206)
- Standby Pay (NAC 284.218)

Disclosure of Improper Governmental Activity (NRS 281.611 through 281.671 and NAC 281.305 through NAC 281.315.)

Disciplinary Action

- Causes for (NAC 284.650)
- Disciplinary Measures (NRS 284.383, NRS 284.385, NAC 284.638 through 284.653)
- Notice and Hearing Requirements (NAC 284.656)

Employment Process:

- Applications (NAC 284.310)
- Eligibility and Certification (NRS 284.250)
- Job Announcement (NAC 284.334)
- Minimum Qualifications (NAC 284.318)
- Recruitment and Examination (NAC 284.318, 284.320 and 284.322)

Employee Performance/Development:

- Performance Evaluation (NRS 284.340)
- Work Performance Standards (NRS 284.335 and NAC 284.468)

Essential Functions of a Position:

- Determination (NAC 284.356)
- Provision to Candidates for Employment (NAC 284.357)

Grievance procedure:

- Adjustment of grievance (NRS 284.384, NAC 284.658 through 284.6957)

Prohibitions and Penalties:

- Honorarium, Receipt by Public Employees Prohibited (NRS 281.553)
- Political Activity (NAC 284.770)
- Sexual Harassment (NAC 284.771)

Separations:

Involuntary Termination (NRS 284.385 and NRS 284.611)

Layoff Procedures (NRS 284.380 and NAC 284.612 through 284.630)

Voluntary Resignation (NRS 284.381 and NAC 284.602)

Smoking Policy (NRS 202.2491)

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LEGALLY REQUIRED PERSONNEL POSTERS FOR STATE OF NEVADA WORKPLACES

The following chart indicates the personnel-related notices required to be posted in State of Nevada workplaces by state or federal law, executive order, or regulation. Some publishers include several of the requirements on one poster. Although we have attempted to be comprehensive, we cannot guarantee that every personnel-related posting requirement is listed.

| POSTER | AVAILABLE FROM | CONTACT/ TELEPHONE #* |
|---|--|---|
| Federal 5-in-1 Labor Law Poster (WH 1088) - Rev. 6/93 | U.S. Dept. of Labor Wage & Hour Division | (775) 784-5200 |
| Your Rights Under the Family and Medical Leave Act of 1993 (WH 1420) - 6/93 | U.S. Dept. of Labor Wage & Hour Division | (775) 784-5200 |
| Equal Employment Opportunity is the Law - 1994/Rev. 1992 | U.S. Equal Employment Opportunity Commission | (800) 669-3362 |
| Nevada Law Prohibits Discrimination in Employment (NERC 0002/0003) - Rev. 10/94 | Nevada Equal Rights Commission, Dept. of Employment, Training & Rehabilitation | Reno Office (775) 688-1288 Las Vegas Office (702) 486-7161 |
| <i>Available in English & Spanish</i> | | |
| Notice to Employees (<i>Unemployment Insurance</i>) (NUCS 4324) - Rev. 3/95 | Contributions Section, Employment Security Div., Dept. of Employment, Training & Rehabilitation | Mary Ellen Hewlett (775) 687-4540 |
| Information for the Unemployed Worker (NUCS 4139) - Rev. 3/97 (<i>Leaflet to be distributed to all employees who leave employment.</i>) | Contributions Section, Employment Security Div., Dept. of Employment, Training & Rehabilitation | Mary Ellen Hewlett (775) 687-4540 |
| Nevada Safety and Health Protection on the Job - Rev. 1/97 | Occupational Safety and Health Enforcement Section, Industrial Relations Div., Dept. of Business & Industry | Reno Office (775) 688-1380 Las Vegas Office (702) 486-5020 |
| Emergency Phone Numbers (OSHES 1000) - Rev. 12/96 | Occupational Safety and Health Enforcement Section, Industrial Relations Div., Dept. of Business & Industry | Reno Office (775) 688-1380 Las Vegas Office (702) 486-5020 |

| POSTER | AVAILABLE FROM | CONTACT/ TELEPHONE #* |
|---|---|---|
| Log & Summary of Occupational Injuries & Illness (OSHA No. 200) - 1995 <i>(Post by February 1 each year and leave posted for 30 days.)</i> | Occupational Safety and Health Enforcement Section, Industrial Relations Div., Dept. of Business & Industry | Reno Office (775) 688-1380 Las Vegas Office (702) 486-5020 |
| Brief Description of Your Rights & Benefits Under Nevada Law If You are Injured on the Job - Rev. 11/95 | Employers Insurance Company of Nevada | Pam Bell (775) 886-1041 |

FORMS AVAILABLE THROUGH THE DEPARTMENT OF PERSONNEL

| FORM NO. | TITLE | REVISION DATE | EXPLANATION | DIV./ SEC. |
|---|--|----------------------|--|-------------------|
| RECRUITMENT/EXAMINATION/EMPLOYMENT | | | | |
| NPD-3 | Personnel Requisition | April 1990 | This is used to request an eligible list or to open a recruitment for a position. | FS |
| NPD-1 | Employment Application | December 1996 | This is used to apply for employment with the State. | FS |
| FS-09 | Request for Transfer | September 1996 | This is used by an employee to request placement on a transfer list for employment in another agency or department. | FS |
| ADA-1 | Essential Functions Job Analysis | July 1993 | This is used to identify the essential duties of a position prior to the hiring interview process. | TS |
| ADA-2 | Physical Characteristics Questionnaire | September 1996 | This form is provided to candidates interviewed for vacant positions. It specifies the physical abilities and working conditions associated with a position. | TS |
| ADA-3 | Essential Functions | September 1996 | Duties identified as essential functions are listed on this form. It is provided to candidates interviewed for vacant positions. | TS |
| CLASSIFICATION | | | | |
| NPD-19S | New Position Description | August 1994 | This can be used to establish select journey level positions. | FS |
| NPD-19 | Position Questionnaire | August 1996 | This is used to establish new positions and request reclassification of existing positions. | FS |
| COMPENSATION | | | | |
| NPD-4 | Request to Accelerate Salary | May 1992 | This is used to request an adjustment of steps within the grade. | FS |
| NPD-5 | Request for Temporary Adjustment to Salary | June 1997 | This is used to request a salary adjustment pursuant to NAC 284.206. | FS |
| TS-25 | Election of Compensatory Time | November 1995 | This is used to document an agreement between an agency and a non-represented employee to receive compensatory time in lieu of cash payment for overtime. | TS |
| TS-78 | Request for Variable Workday Schedule | November 1995 | This is used by an employee to request approval for a variable workday schedule. | TS |
| PERFORMANCE REPORTS | | | | |
| NPD-15 | Employee Appraisal and Development Form | November 1992 | This is used to document an employee's performance evaluation. | TS |
| TRAINING | | | | |
| TR-17 | Training Request Form | December 1997 | This is used to request training from the Department of Personnel's Training and Development Section. | T |
| ATTENDANCE AND LEAVES | | | | |
| NPD-60 | Request for Leave of Absence | September 1997 | This is used to request family and medical leave. | TS |

| FORM NO. | TITLE | REVISION DATE | EXPLANATION | DIV./ SEC. |
|--|---|----------------------|---|-------------------|
| NPD-61 | Certification of Physician or Practitioner | August 1995 | This is used, where applicable, to document the medical necessity for family or medical leave. | TS |
| NPD-62 | Employer Response to Employee Request for Family or Medical Leave | November 1997 | This is used to notify the employee of his obligations and the effects of using family and medical leave. | TS |
| NPD-25 | Notice of Intent to Donate Leave; Request to Transfer Leave; Notice of Return of Excess Donated Leave | January 1994 | These forms are used to process donations of annual or sick leave to a catastrophic leave account. | P |
| TS-12 | Voluntary Leave Without Pay | December 1995 | Voluntary leave without pay during fiscal emergency. | TS |
| GRIEVANCE PROCEDURE | | | | |
| NPD-50 | Formal Grievance | November 1995 | This form is to be used for filing a formal grievance by an employee. | TS |
| NPD-51 | Response to Formal Grievance | November 1995 | This form is to be completed by the person responding to the grievance and attached as the top copy to the Formal Grievance at each step in the grievance procedure. | TS |
| DISCIPLINARY ACTION | | | | |
| NPD-52 | Written Reprimand | September 1995 | This form is used for written reprimands which are placed in the employee's service jacket. | TS |
| NPD-41 | Specificity of Charges | December 1995 | This form is used in the disciplinary process to advise an employee of an alleged violation and recommended action. | TS |
| SEPARATIONS FROM SERVICE | | | | |
| NPD-42 | Recommendation of Separation Pursuant to NAC 284.611 | Dec. 1995 | This is used to notify an employee of a recommendation for separation from service due to a physical, mental or emotional disorder pursuant to NAC 284.611. | TS |
| HEARINGS BEFORE THE HEARING OFFICER | | | | |
| NPD-53 | Request for Hearing Under the Provisions of NRS 281.641 | April 1999 | This is used by an employee to file an appeal of an alleged reprisal or retaliatory action for disclosure of improper governmental action. | AS |
| USE OF ALCOHOL OR DRUGS | | | | |
| TS-58 | Policy Statement - Alcohol/ Drug Free Workplace and Acknowledgment | July 1998 | This is used to advise an employee of the State's policy regarding maintenance of an alcohol/drug free workplace. | TS |
| TS-77 | Report for Suspected Alcohol/ Drug Impairment | April 1994 | This is used by a supervisor to document the objective facts giving reasonable belief that the employee was under the influence of alcohol or a controlled substance. | TS |
| TS-76 | Alcohol/Drug Test Consent Form | April 1994 | This form is used to obtain the consent of an applicant/employee for alcohol/drug testing. | TS |
| TS-69 | Employee Breath Test for Alcohol | February 1992 | This is used to record the results of a breath test for alcohol. | TS |
| PAYROLL/RECORDS | | | | |
| I-9 (INS) | Employment Eligibility Verification | November 1991 | This form is used to verify an employee's eligibility to work in the United States. | R |

| FORM NO. | TITLE | REVISION DATE | EXPLANATION | DIV./ SEC. |
|---------------|--|----------------|---|------------|
| ESMT-A | Employment Status Maintenance Transaction | Feb. 1999 | These forms are used to establish an employee in the payroll/human resource system and document any subsequent personnel/payroll actions. | R |
| ESMT-B | Employment Personal Information | Oct. 1998 | | |
| CPER/ PPER | Weekly Time Sheet | March 1999 | The time sheet is used to account for hours worked, leave used, and the specific times at which the work shift begins and ends during a pay period. The time sheet may be used to account for the current pay period or a prior pay period. | P |
| 0-752 | Special Pay/Time Adjustment Sheet | March 1999 | This is used to document adjustments to leave or pay. | P |
| --- | TJ Worksheet | March 1999 | This form is submitted with a TJ to process a retroactive increase due to a merit salary increase, promotion or reclassification. It is also used to process the "buy back" of leave in conjunction with SINS payments. | P |
| PAY-20 | Payroll System Cost Distribution File Maintenance | September 1992 | This is used to document the distribution of payroll costs for a position. | P |
| PAY-70 | Batch Control Sheet | March 1999 | This is attached to batches of time sheets prior to submission to Central Payroll. | P |
| LEAV | Leave Accrual Adjusting Form | March 1999 | This form is used to establish, adjust or delete leave balances in the payroll system. | P |
| 0-792 | Signature Authorization Form | --- | This is used to document those who are authorized signers for document preparation/approval. | P |
| PAY-07 | Authorization for Payroll Check Pick Up | April 1994 | This is used to document those authorized to pick up payroll checks or hand-typed checks. | P |
| 0-2277 | Authorization Agreement for Direct Deposit of Net Wages | February 1991 | This is used by an employee to authorize the direct deposit of wages to a financial institution. | P |
| SBD-2003 | Authorization for Purchase and Request for Change - U.S. Series EE Savings Bonds | --- | This is used by an employee to authorize an allotment from pay for the purchase of a U.S. Savings Bond. | P |
| W-5 (IRS) | Earned Income Credit Advance Payment Certificate | --- | This is used if an eligible employee chooses to get part of the earned income credit in advance with his pay. | R |
| W-4 (IRS) | Employee's Withholding Allowance Certificate | --- | This is used by an employee to notify the State of the amount of federal income tax to be withheld from his pay. | R |

FS - Field Services
 TS - Technical Services
 AS - Administrative Services

P - Central Payroll
 R - Central Records
 T - Training

As of 6/21/99

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